



REPORT NO.

246

**PARLIAMENT OF INDIA
RAJYA SABHA**

**DEPARTMENT-RELATED PARLIAMENTARY STANDING COMMITTEE
ON HOME AFFAIRS**

**TWO HUNDRED FORTY SIXTH REPORT
ON
THE BHARATIYA NYAYA SANHITA, 2023**

**(PRESENTED TO THE CHAIRMAN, RAJYA SABHA ON 10TH NOVEMBER, 2023)
(FORWARDED TO THE SPEAKER, LOK SABHA ON 10TH NOVEMBER, 2023)**



**Rajya Sabha Secretariat, New Delhi
November, 2023/Kartika, 1945 (Saka)**

Hindi version of this publication is also available



**PARLIAMENT OF INDIA
RAJYA SABHA**

**DEPARTMENT-RELATED PARLIAMENTARY STANDING
COMMITTEE ON HOME AFFAIRS**

**TWO HUNDRED FORTY SIXTH REPORT
ON
THE BHARATIYA NYAYA SANHITA, 2023**

**(PRESENTED TO THE CHAIRMAN, RAJYA SABHA ON 10TH NOVEMBER, 2023)
(FORWARDED TO THE SPEAKER, LOK SABHA ON 10TH NOVEMBER 2023)**



**Rajya Sabha Secretariat, New Delhi
November 2023/Kartika, 1945 (Saka)**

C O N T E N T S		
1.	COMPOSITION OF THE COMMITTEE	(i) - (iii)
2.	ACRONYMS	(iv)
3.	PREFACE	(v)-(vi)
4.	REPORT	1-42
	CHAPTER -1 INTRODUCTION	1-10
	CHAPTER-2 VIEWS OF THE STAKEHOLDERS	11-15
	CHAPTER-3 RECOMMENDATIONS ON CLAUSES	16-42
5.	OBSERVATIONS/RECOMMENDATIONS OF THE COMMITTEE – AT A GLANCE	43-54
6.	NOTES OF DISSENT	55-199
7.	RELEVANT MINUTES OF THE MEETINGS OF THE COMMITTEE*	--
8.	ANNEXURES	200-336

*To be appended at a later stage

**DEPARTMENT-RELATED PARLIAMENTARY STANDING
COMMITTEE ON HOME AFFAIRS**

(re-constituted *w.e.f.* 13th September, 2022)

1. **Shri Brij Lal** - **Chairman**

RAJYA SABHA

2. Shri Biplab Kumar Deb
3. Shri N. R. Elango
4. Dr. Anil Jain
5. Shri Sujeet Kumar
6. Shri Neeraj Shekhar
7. Shri Digvijaya Singh
8. Shri Rakesh Sinha
9. *Shri Derek O'Brien
10. †Shri P. Chidambaram

LOK SABHA

11. Shri Sanjay Bhatia
12. Shri Adhir Ranjan Chowdhury
13. Dr. (Shrimati) Kakoli Ghosh Dastidar
14. Shri Dilip Ghosh
15. Shri Dulal Chandra Goswami
16. Shrimati Kirron Kher
17. Thiru Dayanidhi Maran
18. Shri Raja Amareshwara Naik
19. Shri Ranjeetsingh Naik Nimbalkar
20. Shri Jamyang Tsering Namgyal
21. Shri Gajendra Singh Patel
22. Shri Lalubhai Babubhai Patel
23. Shri R. K. Singh Patel
24. Shri Vishnu Dayal Ram
25. Shrimati Sarmistha Kumari Sethi
26. ≠Shri Rahul Ramesh Shewale
27. Shri Ravneet Singh
28. Dr. Satya Pal Singh
29. Shrimati Geetha Viswanath Vanga
30. Shri Dinesh Chandra Yadav
31. ¥Vacant

* Shri Derek O'Brien, MP, Rajya Sabha nominated *w.e.f.* 23rd August, 2023.

† Shri P. Chidambaram, MP, Rajya Sabha nominated *w.e.f.* 28th August, 2023 in place of Shri P. Bhattacharya, who retired from the membership of Rajya Sabha on the 18th August, 2023.

≠ Shri Rahul Ramesh Shewale, MP, Lok Sabha nominated *w.e.f.* 19th October, 2022 in place of Shri Gajanan Chandrakant Kirtikar, MP, Lok Sabha.

¥ Consequent upon disqualification of Shri Faizal P. P. Mohammed from the Membership of Lok Sabha *w.e.f.* 11th January, 2023 in terms of the provisions of Article 102(1)(e) of the Constitution of India read with Section 8 of the Representation of the People Act, 1951, he ceases to be a Member of the Committee.

**DEPARTMENT-RELATED PARLIAMENTARY STANDING
COMMITTEE ON HOME AFFAIRS**

(re-constituted *w.e.f.* 13th September, 2023)

1. **Shri Brij Lal** - **Chairman**

RAJYA SABHA

2. Shri P. Chidambaram
3. Shri Biplab Kumar Deb
4. Shri N. R. Elango
5. Dr. Anil Jain
6. Shri Sujeet Kumar
7. Shri Derek O'Brien
8. Shri Neeraj Shekhar
9. Shri Digvijaya Singh
10. Shri Rakesh Sinha

LOK SABHA

11. Shri Sanjay Bhatia
12. Shri Adhir Ranjan Chowdhury
13. Dr. (Shrimati) Kakoli Ghosh Dastidar
14. Dr. Nishikant Dubey[‡]
15. Shri Dilip Ghosh
16. Shri Dulal Chandra Goswami
17. Thiru Dayanidhi Maran
18. Shri Raja Amareshwara Naik
19. Shri Ranjeetsingh Naik Nimbalkar
20. Shri Jamyang Tsering Namgyal
21. Shri Gajendra Singh Patel
22. Shri Lalubhai Babubhai Patel
23. Shri R.K. Singh Patel
24. Shri Vishnu Dayal Ram
25. Shrimati Sarmistha Kumari Sethi
26. Shri Rahul Ramesh Shewale
27. Shri Ravneet Singh
28. Dr. Satya Pal Singh
29. Shrimati Geetha Viswanath Vanga
30. Shri Dinesh Chandra Yadav
31. Vacant

[‡] Dr. Nishikant Dubey, MP, Lok Sabha nominated *w.e.f.* 5th October, 2023 in place of Shrimati Kirron Kher, MP, Lok Sabha.

SECRETARIAT

Shri S. Jason, Joint Secretary
Shri Ravinder Kumar, Director
Shri Goutam Kumar, Deputy Secretary
Shri Sreejith V., Deputy Secretary
Smt Neelam Bhatt, Under Secretary
Shri Manoj H M, Committee Officer

ACRONYMS

ATM	Automated Teller Machine
BNS	Bharatiya Nyaya Sanhita
BNSS	Bharatiya Nagarik Suraksha Sanhita
BPR&D	Bureau of Police Research & Development
BSB	Bharatiya Sakshya Bill
CBI	Central Bureau of Investigation
CPOs	Central Police Organisations
DRSC	Department-related Parliamentary Standing Committee
FIR	First Investigation Report
IB	Intelligence Bureau
IPC	Indian Penal Code
IPS	Indian Police Service
JJ Act	Juvenile Justice Act
LGBTQ	Lesbian, Gay, Bisexual, Transgender and Queer
MCOCA	Maharashtra Control of Organised Crime Act, 1999
MHA	Ministry of Home Affairs
NCPCR	National Commission for Protection of Child Rights
NCRB	National Crime Records Bureau
NLU	National Law University
PMLA	Prevention of Money Laundering Act, 2002
POCSO	Protection of Children from Sexual Offences Act, 2012
POTA	Prevention of Terrorism Act, 2002
TADA	Terrorist and Disruptive Activities (Prevention) Act, 1987
UAPA	Unlawful Activities Prevention Act, 1967
UNODC	United Nations Office on Drugs and Crime

PREFACE

I, the Chairman of the Department-related Parliamentary Standing Committee on Home Affairs, having been authorized by the Committee to present the Report on its behalf, present this Two Hundred Forty Sixth Report of the Committee on **THE BHARATIYA NYAYA SANHITA, 2023 (Annexure-I)**.

2. In pursuance of Rule 270 of the Rules of Procedure and Conduct of Business in the Council of States relating to the Department-related Parliamentary Standing Committees, the Hon'ble Chairman, Rajya Sabha in consultation with the Hon'ble Speaker, Lok Sabha had on 18th August, 2023 referred **The Bharatiya Nyaya Sanhita, 2023**, as introduced in the Lok Sabha on 11th August, 2023 and pending therein, to the Department-related Parliamentary Standing Committee on Home Affairs for examination and report within three months.

3. The Committee held 12 meetings during the course of examination of the Sanhita. In its first sitting held on 24th August, 2023, the Home Secretary made a presentation on the Sanhita. Thereafter, in the meetings held on 25th and 26th August, 2023, the views and opinions of the Members of the Committee were gathered. On 11th, 12th, 13th, 22nd, 23rd September, 2023 and 3rd October, 2023, the Committee heard the views of domain experts. A list of domain experts, who appeared before the Committee is at **Annexure-II**. The Committee held clause-by-clause consideration with regard to the Bharatiya Nyaya Sanhita, 2023 on 4th and 5th October 2023. Further, on 27th October, 2023, the Members of the Committee again expressed their views on the Bill.

4. The Committee in its sitting held on 06th November, 2023, considered the draft **246th Report** on the Bharatiya Nyaya Sanhita, 2023 and adopted the same.

5. The Committee relied on the following documents in finalizing its Report:

- i. The Bharatiya Nyaya Sanhita, 2023;
- ii. The Indian Penal Code, 1860;
- iii. Background Note on the Sanhita received from the Ministry of Home Affairs;
- iv. Presentation, clarifications and oral evidence of Home Secretary and senior officials of Ministry of Home Affairs and Ministry of Law and Justice;
- v. The Constitution of India;
- vi. Suggestions received on the Sanhita from serving and former Members of Parliament, various private individuals/associations/organisations/experts, State Governments and replies of the Ministry on such suggestions;
- vii. Oral evidence and written submissions by various stakeholders/experts on the Sanhita; and
- viii. Replies received from the Ministry of Home Affairs to the questions/queries raised by Members and the domain experts during the meetings on the Sanhita.

6. On behalf of the Committee, I would like to acknowledge with thanks the contributions made by those who deposed before the Committee and also those who gave their valuable suggestions to the Committee through their written submissions. I also thank Home Secretary and other officials for their deliberation on the Sanhita.

7. For facility of reference and convenience, the observations and recommendations of the Committee have been printed in bold letters in the body of the Report.

6th November, 2023
New Delhi
Kartika, 1945 (Saka)

Brij Lal
Chairman
Department-related Parliamentary
Standing Committee on Home Affairs

REPORT

Chapter - 1

INTRODUCTION

Necessity of the Sanhita

1.1 The Bharatiya Nyaya Sanhita, 2023 introduced in the Lok Sabha on 11th August, 2023 seeks to replace the Indian Penal Code (IPC), 1860. This Sanhita was introduced along with Bharatiya Nagarik Suraksha Sanhita (BNSS), 2023 and Bharatiya Sakshya Bill (BSB), 2023. All the three legislations propose a complete overhaul of the criminal justice system in our country. The Statement of Objects and Reasons (SOR) of the Bill states that the Indian Penal Code, enacted in 1860, is still continuing in the country with certain amendments made therein from time to time.

1.2 It is also stated in the SOR that the Government considered it expedient and necessary to review the existing criminal laws to strengthen law & order and also to focus on simplifying legal procedure so that ease of living is ensured to the common man. The Government also considered making, the existing laws relevant to the contemporary situation and provide speedy justice to common man. To achieve this objective, various stakeholders were consulted keeping in mind the current needs and aspirations of the people, and with a view to create a citizen centric legal structure and to secure life and liberty of the citizens.

1.3 The existing laws, stemming from the colonial era, no longer represented the present day dynamics and aspirations of Indian society. The existing laws have often been criticised for being outdated and not in tune with present needs. The proposed Bharatiya Nyaya Sanhita, 2023 seeks to change the nature of the law towards providing justice rather than punishment and would be a step forward to remove traces of colonial mind-set.

Background

1.4 Amendment in the criminal laws is a continuous process. MHA in its background note has stated that various reports including reports of the Law Commission of India, Bezbaruah Committee, Vishwanathan Committee, Malimath

Committee, Madhav Menon Committee, etc, made recommendations for section-specific amendments in criminal laws and general reforms in criminal justice system, whereas 111th (2005), 128th (2006) and 146th (2010) Reports of the Department-related Parliamentary Standing Committee on Home Affairs had recommended for a comprehensive review of the criminal justice system in the country and stressed upon the need to reform and rationalise the criminal laws of the country by introducing a comprehensive legislation in Parliament rather than bringing about piecemeal amendments in the criminal laws.

1.5 The Home Secretary, during his presentation before the Committee on 24th August, 2023 *inter alia* highlighted the main problems in present legal system, which can be summarised as under:-

- Complex nature of the legal system;
- Huge pendency of cases in the courts;
- Low conviction rate;
- The amount of fine prescribed in the laws is very less (from Rs. 10 to Rs. 500);
- Overcrowding of undertrials prisoners in prisons;
- Very little use of modern technology in the legal system;
- Delay in investigation, complicated investigation/ pending hearing process;
- Delayed justice due to inadequate use of forensic evidence etc.,

1.6 The Home Secretary stated that the pre-independence criminal laws were used by the British to protect their colonial interests, to rule the people and the country and to maintain their authority and supremacy over India. There was a need for comprehensive review of the criminal laws, especially the Indian Penal Code, Criminal Procedure Code, Indian Evidence Act and adapt them according to the present day needs and aspirations. Therefore, in accordance with the basic principles enshrined in the Constitution of India, it was proposed to bring about fundamental comprehensive changes in the framework of Indian criminal laws. With this objectives in view, the existing Indian Penal Code, 1860, the Code of Criminal Procedure, 1973 and the Indian Evidence Act, 1872 would now be repealed and replaced by the Bharatiya Nyaya Sanhita, 2023 the Bharatiya Nagarik Suraksha Sanhita, 2023 and the Bharatiya Sakshya Bill, 2023, respectively.

Journey of the Sanhita

1.7 The Home Secretary in his presentation before the Committee stated that the process of consultation before bringing the BNS, 2023 to the Parliament, had started way back in September, 2019. Consultations were held with various stakeholders to create a robust legal structure in the country. He stated that the Ministry of Home Affairs had requested all Governors, Chief Ministers, Lt. Governors/ Administrators of States and Union Territories to send their suggestions on comprehensive amendments to the criminal laws. Suggestions were also sought from the then Chief Justice of India, Chief Justices of all High Courts, Bar Councils and Law Universities/ noted Institutions. Members of Parliament (both Lok Sabha and Rajya Sabha) were also requested to share their valuable inputs on the amendment of existing criminal laws.

1.8 It was further informed by the Home Secretary that subsequently a committee was constituted in March, 2020 under the Chairmanship of Vice Chancellor, National Law University (NLU), Delhi, to suggest reforms in existing criminal laws. That committee also invited suggestions from various quarters and in response it had received the views of States, Union Territories, Supreme Court of India, various High Courts, legal experts, research centres, academicians, lawyers, civil society group, noted law universities, Members of Parliament, etc, from across the country. Director, Central Bureau of Investigation (CBI); Director, Intelligence Bureau (IB); Director General, Bureau of Police Research & Development (BPR&D); and more than 1000 Indian Police Service officers also sent their suggestions to that committee. The NLU committee after extensive deliberations and research submitted its report to the Government in February, 2022 with its recommendations. The Home Secretary also informed that a total of 3200 suggestions were received by that committee which were consolidated in the report submitted by it.

1.9 The Home Secretary also informed the Committee that all the suggestions received were in-depth examined by the Ministry of Home Affairs in consultation with the officers of the Ministry of Law & Justice and thereafter three new legislations, namely, Bharatiya Nyaya Sanhita, 2023, Bharatiya Nagarik Suraksha Sanhita, 2023 and Bharatiya Sakshya Bill, 2023 were drafted for re-enactment and

replacement of the Indian Penal Code, 1860, Code of Criminal Procedure, 1973 and the Indian Evidence Act, 1872.

Observations/Recommendations

1.10 The Committee has taken note of the milestone initiative of the Government for bringing these legislations, which shall form the bedrock of our criminal justice administration. The Committee is of the view that the process of consultation undertaken has been exhaustive and comprehensive. The Committee appreciates the work done by the Ministry of Home Affairs and the Ministry of Law & Justice in undertaking this mammoth task of drafting comprehensive amendments to the criminal laws and 4 years of intense discussions for making new laws that imbibe Indian thought process and the Indian soul. A comprehensive review of criminal justice system in our country was a need of the hour to bring it on par with the contemporary aspirations of the people. Having taken a citizen-centric approach, these proposed laws serve as a reassurance to the Indian citizens. The Committee feels that these Bills are much-awaited and much-needed reforms as well as imperative for smooth and transparent functioning of our legal system.

BNS, 2023 *vis-a-vis* IPC, 1860

1.11 The Home Secretary in his presentation highlighted the major changes/ amendments that have been introduced in the proposed Sanhita *vis-a-vis* the IPC, 1860. He informed that clauses in the proposed Sanhita have been rearranged keeping in mind the contemporary situation and priorities. The offences against women and children, murder and offences against the State have been given precedence in the Sanhita. The Sanhita has been streamlined, overlapping sections have been merged, simplified and now it consists of 356 sections as against 511 sections in existing IPC, 1860. Further, definitions scattered from section 6 to section 52 have also been brought under one section now, whereas 18 sections already stands repealed & 4 sections relating to weights and measures are covered under the Legal Metrology Act, 2009. Important changes in the proposed legislation listed out by the Home Secretary, MHA are as under in detail:-

Newly added sections/ clauses:-

- i. *'Transgender'* has been defined in accordance with the Transgender Persons (Protection of Rights) Act, 2019 under clause 2(9) of the proposed Sanhita.
- ii. *'Community Service'* has been introduced as one of punishments under clause 4(f). The proposed law prescribes this punishment for petty offences: like non-appearance in response to a proclamation, attempt to commit suicide, to compel or restraint exercise of lawful power of public servant, petty theft on return of theft money, misconduct in public by a drunken person, defamation, etc.
- iii. Abetment by a person outside India has been made an offence under section 48 to allow prosecution of person located in foreign country.
- iv. Sexual intercourse by employing deceitful means has been made a punishable offence under clause 69. "*Deceitful means*" shall include the false promise of employment or promotion, inducement or marrying after suppressing identity.
- v. There was no provision to prosecute a person who employ or engage a child for the purpose of committing offences. A new section 93 has been added to make; hiring, employing, engaging or using a child for committing offences including sexual exploitation or pornography offence as if such person himself has committed the offence.
- vi. A new provision has been inserted in clause 101 relating to murder: "*when a group of five or more persons acting in concert commit a 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 which shall not be less than seven years and shall also be liable to fine.*"
- vii. The Supreme Court has struck down existing section 303 of IPC pertaining to punishment for murder by life-convict on the ground that it provided for only single punishment and the court had no discretion. Now, two alternate punishments which will run consecutively have been provided to remove the said infirmity under clause 102 of the new law.
- viii. As the instances of hit and run cases are on the rise, a new provision under clause 104(2) has been made

- ix. To curb the rise in instances of organized crime and subversive activities against the country, clause 109 has been inserted in the new law which prescribes punishments for various offences of organized crime.
- x. A new clause 110 has been added in the proposed law which deals with '*petty organised crime*'.
- xi. A clause 111 has been added in the proposed law to provide for punishments in respect of acts of terrorism.
- xii. The law provides for new clause under clauses 115(3) and 115(4) which covers the offences of '*grievous hurt resulting in persistent vegetative state or in permanent disability*' and '*grievous hurt by a mob*' respectively.
- xiii. A new offence relating to act of endangering sovereignty, unity and integrity of India has been added under clause 150 in the new law.
- xiv. A new clause 224 has been added to punish those who attempt to commit suicide with the intent to compel or restrain the exercise of any lawful power by a public servant and the punishment prescribed is imprisonment up to one year or with fine or with both or with community service.
- xv. A new clause 302 has been inserted providing for imprisonment extendable to 3 years to deal with the offence of snatching which has become rampant these days particularly chain snatching or mobile snatching. Earlier there was no provision to address snatching.

Repealed/deleted/omitted sections:-

- i. Section 377 of IPC has been deleted which is relating to unnatural sex against the order of nature.
- ii. Section 497 of IPC relating to adultery has been deleted as Supreme Court read down the provision.
- iii. The section 124A of IPC relating to sedition has been deleted.

Amendments made to introduce gender neutrality:-

- i. Clause 75 about disrobing a woman and clause 76 about voyeurism have been made gender neutral.
- ii. Both boys and girls are procured for sexual exploitation. The word "*minor girl*" in section 366A of IPC has been replaced with the word "*child*" in clause 94 of the proposed law to cover both male and female children below

the age of 18 years and the offence of procurement has been made punishable.

- iii. The section 366B in IPC has been made gender neutral by replacing the phrase '*importation of girl from foreign country*' by '*importation of girl or boy from foreign country*' and has been introduced as clause 139 in the new law to cover the offence of importing into India any girl under the age of twenty-one years or any boy under the age of eighteen years with intent that such person will be forced or seduced to illicit sexual acts with another person.

Other amendments/changes:-

- i. The reference to the year has been changed from "British calendar year" to "Gregorian calendar year" in clause 2(20).
- ii. The terms like idiot, lunatic, unsound mind, etc. have been replaced with intellectual disability, mental illness, etc. in line with the terms used in the Mental Health Care Act, 2017.
- iii. Imprisonment for life has been defined as imprisonment for remainder of a person's natural life under clause 4(b).
- iv. It has been proposed in the clause 70 that punishment for gang rape on a woman under the age of 18 years shall be life imprisonment (till remainder of that person's natural life) or death.
- v. Section 242 of IPC has been amended and introduced as clause 178 to protect the public who are merely in possession of forged or counterfeit currency-notes or bank-notes etc. The amended law provides that possession of counterfeit currency note has to be accompanied by the intention to use the same as genuine. Also various sections on counterfeiting of coins, Government stamps, currency notes and bank notes have been merged.
- vi. The existing section 152 in IPC regarding '*assaulting or obstructing public servant when suppressing riot, etc.*' has been divided into 2 parts and included under clause 193 of the new law, one for the offence of assault or obstruction of public servant and the other for threatening to assault or attempt to obstruct having different punishments and fine.
- vii. The relevant sections of IPC relating to '*promoting of enmity between groups on the ground of religion, race, place of birth, language, etc. and doing acts prejudicial to maintenance of harmony*' have been amended so as

to cover offences committed through electronic communication- along with other means.

- viii. Sections 378 and 379 of IPC have been clubbed and introduced as clause 301 under the new law. Additionally it also provides that in cases where theft value of the stolen property is less than Rs 5000/-, and the person is first time convict, upon return of the value of property or restoration of the stolen property, he shall be punished with community service.
- ix. Section 380 of IPC relating to '*theft in dwelling house etc.*' has been expanded to cover theft of idol, Government property, theft of vehicle and theft of any article/goods from the vehicle. The corresponding clause in the Sanhita is clause 303 – '*theft in a dwelling house, or means of transportation or place of worship, etc.*'
- x. The offence of mischief in the relevant sections of IPC has been expanded and causing loss or damage to any property including the property of Government or Local Authority has been made punishable with imprisonment extendable up to one year, or with fine, or with both (as against just 6 months or with fine, or both for offence of mischief presently).
- xi. Fines in the IPC were very low (Rs.10 to Rs. 500). Similarly, the punishments for various offences also needed rationalization. Fines and terms of imprisonment for various offences have been enhanced in the proposed law.

IPC, 1860 Provisions Omitted in BNS, 2023

1.12 It has been pointed out that section 153AA of IPC that provides 'punishment for knowingly carrying arms in any procession or organizing, or holding or taking part in any mass drill or mass training with arms' has been omitted in the proposed Sanhita. The Committee opined that this omission may encourage groups having such tendencies to organize such drills with weapons etc., which might create enmity among various groups and also have potential to disturb the peace. In this regard, the MHA has commented that this provision was passed by the Parliament in 2005 but its date of enforcement has not been notified since 2005.

1.13 The Committee takes note of the submission made by the Ministry.

1.14 Members of the Committee and several stakeholders expressed objection to section 377 of IPC being completely deleted in the Bharatiya Nyaya Sanhita, 2023. The experts who appeared before the Committee stated that the Supreme Court in *Navtej Singh Johar v. Union of India (2018)* read down section 377 of IPC as violative of Articles 14, 15, 19, and 21 of the Constitution as it penalizes consensual unnatural sexual acts of adults. It is a positive change especially for the Lesbian, Gay, Bisexual, and Transgender (LGBTQ) community as the changing needs of the society require the laws to change as well. Following this decision, section 377, IPC is now applied to prosecute only non-consensual sexual acts.

1.15 The Committee understands that the unnatural sex which was an offence under section 377, IPC has been read down by the Supreme Court, but non-consensual sexual acts of unnatural order are still prosecuted under this section. Several Members expressed their opinion about section 377 IPC and were of the view that the remaining part of section 377 IPC, which is still valid, should be retained in the Sanhita, appropriately.

Observations/Recommendations

1.16 The Committee observes that in *Navtej Singh Johar v. Union of India (2018)* case, a five-judge bench of the Supreme Court unanimously held that section 377 of IPC is in violation of Articles 14, 15, 19, and 21 of the Constitution of India. Provisions of section 377, however, remain applicable in cases of non-consensual carnal intercourse with adults, all acts of carnal intercourse with minors, and acts of bestiality. However, now, in the Bharatiya Nyaya Sanhita, 2023, no provision for non-consensual sexual offence against male, female, transgender and for bestiality has been made.

1.17 The Committee feels that to align with the objectives stated in the BNS's Statement of Objects and Reasons, which *inter-alia* highlights the move towards gender-neutral offences, it is mandatory to reintroduce and retain the section 377 of the IPC. The Committee therefore recommends the Government to include section 377 of IPC, in the proposed law.

1.18 Some Members of the Committee suggested for reintroduction of provision in section 497 of IPC relating to 'adultery' in the new law. Domain experts also expressed that it may be considered whether, for the sake of protecting the

institution of marriage, this section should be totally deleted or retained by making both men and women equally culpable under the law. MHA in its comments has expressed that the earlier section 497 under IPC relating to ‘adultery’ has been read down by Supreme Court of India and opined that the Committee may take a view in this regard.

Observations/Recommendations

1.19 The Committee notes that the Supreme Court Bench headed by the then Chief Justice of India, in the Joseph Shine v. Union of India, 2018 case struck down section 497 of IPC as it violated Articles 14, 15, and 21 of the Constitution. The Court held that this law was archaic, arbitrary and paternalistic and infringed upon a woman’s autonomy, dignity and privacy. The provisions under this section only penalised the married man, and reduced the married woman to be a property of her husband. In this regard, the Committee is of the view that the institution of marriage is considered sacred in Indian society and there is a need to safeguard its sanctity. For the sake of protecting the institution of marriage, this section should be retained in the Sanhita by making it gender neutral.

Chapter – 2

VIEWS OF STAKEHOLDERS

Examination by Committee

2.1 The Committee had extensive deliberations on different provisions of the BNS, 2023. Keeping in view the objectives envisaged in the proposed legislation and their impact on the people, the Committee decided to elicit the views of various domain experts including various State Government/UT Administrations on the BNS, 2023. Besides, the Committee also received a number of suggestions/comments from Members of Parliament and ex-Members of Parliament and other private individuals/ organisations.

2.2 A total of 19 domain experts were invited to present their views on the Sanhita. Besides, the presentation on the Sanhita by Home Secretary, the domain experts invited to participate in the deliberations included Senior Advocates practicing in Supreme Court & various High Courts; renowned Vice Chancellor & University Professors of Law; Retired Judges; Chairman, Law Commission of India; Retired Director Generals of Police; Former Additional Solicitor General of India; Former Special Director, Central Bureau of Investigation (CBI); Additional Director General, Bureau of Police Research & Development (BPR&D); and Chairperson, National Commission for Protection of Child Rights, etc Representatives from the Ministry of Law & Justice have also attended the meetings of the Committee. The Committee held a total of 9 meetings to hear the views/opinions of the stakeholders.

Views of Stakeholders

2.3 Several important issues were deliberated extensively during interactions with the experts/stakeholders which are mentioned briefly in succeeding paras.

2.4 All domain experts welcomed the initiative of the Government to introduce these legislations in the Parliament. They were of the view that the new proposed laws reflect the Government's intention to align the legal system with the 21st Century, emphasizing citizen centric legal structures, digital transformation, and a focus on justice rather than punishment. The Committee was informed by these experts that the BNS, 2023 *inter alia* provides new age crimes of economic

offences; organized crime; cybercrimes; penal provision with adequate safeguards to protect the public order, safety and integrity of India that has been fleshed out by Parliament with a democratic mandate. The structure of BNS *vis-à-vis* IPC has been altered. Most of the changes have been done as per the stated aims and objective. Numerically, the number of sections have been reduced from 511 to 356; and Chapters from 23 to 19. Twenty-four sections have been deleted; twenty-two have been added; and a large number re-arranged. In contrast to the IPC, the BNS is more structured and a variety of outdated and outmoded British era colonial provisions have also been removed.

2.5 However, these changes will not result in sudden disruption of the system, as there is continuity in the basic system of jurisprudence. The presumption of innocence till proven guilty and the standards of proof required, i.e., beyond reasonable doubt remain intact. The adversarial system and the appellate structure continue to remain. Through clause 356, BNS repeals IPC. However, as has been settled by the Supreme Court, the provisions in the Bharatiya Nyaya Sanhita, 2023 that have been retained from the IPC will continue to be governed by judicial interpretation given to those provisions under the IPC.

2.6 The experts *inter alia* shared their views on, introduction of “community service” as a punishment for the first time for petty offences; change in the definition of imprisonment for life under clause 4(b), defining it as imprisonment for the remainder of a person’s natural life; clause 111(2)(i) of BNS which introduces the offence of terrorist act and provides life imprisonment without the benefit of parole as the possible punishment; offences against women and children which have been given precedence; sexual intercourse by deceitful means; gang rape; mob lynching in clause 101(2); hit and run cases; offences against the State; abetment; offences against public tranquility; decriminalizing suicide; etc.

2.7 The domain experts also enlightened the Committee about the legality of various clauses of the Sanhita by quoting the judgments of the Supreme Court and High Courts in some of the landmark cases such as – Swamy Shraddhananda @ Murli v. State of Karnataka (2008); Union of India v. V. Sriharan (2016); Tehseen Poonawala v. Union of India (2018); Bachan Singh v. State of Punjab (1980) case about imposing death penalty in rarest of rare cases; State of Maharashtra v. Bharat Shanti Lal Shah (2008) case which upheld the Constitutional validity of

Maharashtra Control of organized Crime Act, 1999; State of Rajasthan v. Shera Ram (2012); S.G Vombatkere v. Union of India (2022) case which put section 124A of IPC in abeyance.

2.8 The stakeholders/experts made submissions before the Committee which *inter alia* focused extensively on some provisions in the Bharatiya Nyaya Sanhita, 2023, which may be summarized as under:

- i. Clause 4(f) regarding ‘*community service*’: The experts observed that the Sanhita does not offer any explanation or clarification of what constitutes ‘community service’, even though it provides for community service as a penalty for minor offences.
- ii. Clause 22 which provides for *general exception* for an act of a person with *mental illness*: As regards this clause, the experts suggested that the phrase “person of mental illness” should be replaced with “person of unsound mind”.
- iii. Clause 101(2) regarding ‘*mob lynching*’: Before the Committee, it was suggested that mob lynching needs to be explicitly recognized as a distinct offence, and a legal definition for the term ‘lynching’ should be included in the proposed Sanhita.
- iv. Clause 104(2) about ‘*hit-and-run*’ offences: The stakeholders and the experts opined that the expressions used in this provision such as ‘escaping from the scene of the offence’ and ‘failure to report to the police officer or magistrate’, are not clear and that this provision requires a re-evaluation to remove any ambiguities.
- v. Clause 109 about ‘*organised crime*’: This clause was appreciated by the experts and considered it as a very effective addition in the substantive law. However, suggested certain corrections in its drafting.
- vi. Clause 110 regarding ‘*petty organized crime*’: The expression “*causes general feelings of insecurity*” in this clause was described as too vague and ambiguous. The experts suggested that the phrase be explained/ defined.
- vii. Clause 111 about ‘*terrorist act*’: The experts welcomed the introduction of a specific provision relating to a terrorist act within the BNS and also suggested that certain phrases in this provision require re-wording or clarification.

- viii. Clause 150 regarding '*acts endangering sovereignty unity and integrity of India*': The experts opined that it is a very progressive development without compromising the security of the state.
- ix. Clause 224 about '*attempt to commit suicide to compel or restraint exercise of lawful power*': The experts appreciated this clause for decriminalising attempt to suicide unless done with intent to stop a public servant from discharging his duty.

2.9 Besides, the domain experts also deliberated at great length about the need to abolish death penalty. It was observed that the proposed legislation has increased the number of crimes which can attract death penalty from 11 to 15; and the number of trial courts awarding death sentence are on the rise since the *Bachan Singh v. State of Punjab* case, 1980. The experts also presented the global trend wherein more countries, over the years, have abolished death penalty and held that the global opinion is overwhelmingly in favour of abolition of death penalty. The Committee was also informed about the research works done by social scientists such as Barbara Wootton which have proved that death penalty has no deterrent effect; and the statistical trend of the judgments given by the Supreme Court leaning away from death penalty.

2.10 The Committee was informed that in 2023, the Supreme Court of India has either set aside all death penalties that were awarded to a convict or commuted it to life imprisonment as the cases did not fall under the category of rarest of rare cases as laid down in the case of *Bachan Singh v. State of Punjab*, or the charges could not be proved. Even though death penalties are imposed by Trial Courts, the Supreme Court has only awarded death penalty to 7 people from 2007 to 2022. It seems there is confusion in capital sentencing at the Trial Court contributing to the poorly reasoned and consistently high number of death sentences. It is evident from the trend in Supreme Court that they are pro-life sentence and not pro-death penalty.

2.11 It was also submitted before the Committee that the retention of death penalty as a punishment should be reconsidered in view of the large-scale debate on the philosophical and empirical aspects; the 'rarest of rare case' doctrine should be defined in more objective terms, if the death penalty has to be retained; various mitigation steps and processes in the *Bharatiya Nagarik Suraksha Sanhita* should

be demarcated, by taking guidance from the principles laid down by the Supreme Court of India; the '*Sentencing Councils*' similar to the ones instituted in United Kingdom should be constituted in India to formulate guidelines on sentencing for the judiciary and to increase public understanding of sentencing; the role of the Sessions Courts and High Courts in cases where evidence is apparent but defence is ill-equipped should be articulated, as per the principles laid down by the Supreme Court; the provisions for mistrial should be inserted to cover instances where media influences outcomes, legal aid counsel fail to provide adequate defence, court does not act impartially or counsel refuse to represent accused - especially in cases involving religious or caste prejudice; the quasi-judicial boards should be made to exercise probation, commutation and remission, to provide greater scope for victims to have a say; and time-lines should be indicated for mercy petitions to be heard and disposed.

Observations/Recommendations

2.12 The Committee after considering the submissions regarding the death penalty has understood that the reason for a passionate argument against death penalty is that the judicial system can be fallible and to prevent an innocent person from being wrongly sentenced to death. In this regard, the Committee recommends that the matter may be left for the Government to consider.

Chapter - 3

RECOMMENDATIONS ON CLAUSES

3.1 During the course of the examination of the Sanhita, the Committee took note of concerns, suggestions and amendments expressed by various experts/stakeholders on the Sanhita. Those suggestions were communicated to the Ministry of Home Affairs for their response. The observations and recommendations contained in the Report reflect an extensive scrutiny of submissions and all the viewpoints put forth before the Committee. Upon scrutiny of the replies received from the Ministry, the Committee is of the view that certain provisions of the Sanhita need to be redrafted to serve the intended purpose of the Sanhita in a better way. Various amendments to the Sanhita have been recommended by the Committee which are discussed in the succeeding paragraphs:

Clause 1 – Short title, commencement and application

3.2 *This clause seeks to provide short title, commencement and application of the proposed legislation.*

Suggestions

3.2.1 Members of the Committee raised concerns over the BNS being given a Hindi name. Concerns have been expressed that the Hindi name may be in violation of the Article 348 of the Constitution of India. The MHA in its response has mentioned that the Article 348 of the Constitution of India *inter alia* says that the authoritative texts of all Acts passed by the Parliament shall be in English language. As the text of the proposed law is in English, it is not in violation of Article 348 of the Constitution of India.

Observations/Recommendations

3.2.2 **The Committee notes the wording of Article 348 of the Constitution of India which says that language to be used in the Supreme Court and in the High Courts, as well as for Acts, Bills and other legal documents shall be in English language. The Committee finds that as the text of the Sanhita is in English, it does not violate the provisions of Article 348 of the Constitution. The Committee is satisfied with the response of the Ministry**

and holds that the name given to the proposed legislation is not in violation of Article 348 of the Constitution of India.

Clause 2

3.3 This clause seeks to define certain words and expressions used in the proposed legislation such as act, omission, counterfeit, dishonestly, gender, good faith, offence, voluntarily, etc.

Suggestions

3.3.1 In BNS, definitions have been consolidated under clause 2(1) to (39) and General Explanations and expressions are under clause 3(1) to (9). All the definitions are alphabetically arranged.

3.3.2 Domain Experts expressed their view that the IPC recognised only two genders: man and woman. It is a welcome change that the BNS recognises transgender as well. The Explanation to clause 2(9) of BNS lays down that ‘transgender’ shall have the meaning assigned to it in clause (k) of section 2 of the Transgender Persons (Protection of Rights) Act, 2019. In this regard, Experts were of the view that the referencing to any other legislation should be avoided and a full-fledged definition as assigned to the term ‘transgender’ in clause (k) of section 2 of the Transgender Persons (Protection of Rights) Act, 2019, must be brought under clause 2 of the BNS. As per clause (k) of section 2 of the Transgender Persons (Protection of Rights) Act, 2019, ‘transgender’ has been defined as follows:

“(k) “transgender person” means a person whose gender does not match with the gender assigned to that person at birth and includes trans-man or trans-woman (whether or not such person has undergone Sex Reassignment Surgery or hormone therapy or laser 2 therapy or such other therapy), person with intersex variations, genderqueer and person having such socio-cultural identities as kinner, hijra, aravani and jogta.”

3.3.3 Further, the Home Ministry informed the Committee that many definitions have been merged and listed alphabetically under clause 2 of BNS; gender has been redefined; word ‘British’ has been changed to ‘Gregorian’; the word ‘corporeal’ has been deleted; the word ‘juryman’ has been removed as jury

system no longer exists; the definition of expressions like – queen, British India, servant of Government, and Government of India have been deleted as they are not used anywhere in the IPC.

Observations/ Recommendations

3.3.4 The Committee lauds the efforts of the Government in logically reorganising the Chapter on ‘General Explanations’ in IPC containing sections from 6 to 52A into clause 2 on ‘definitions’ and clause 3 on ‘general explanations’ under Chapter I of BNS. Sub-clauses in ‘definitions’ have been alphabetically arranged which is not the case in IPC. The deleting of the expressions like British, Queen, etc., is also a welcome step in the direction of legal decolonisation.

3.3.5 The Committee notes the widening of the ‘gender’ definition in the BNS. Considering the fact that the population of transgender persons is 4,87,803 (as per the Census 2011), the Committee appreciates that the scope of gender under clause 2(9) has been expanded by the Government to make it more inclusive. This change gives effect to the rights of transgender persons recognised by the Supreme Court in the *Navtej Singh Johar v. Union of India case, 2018*.

3.3.6 The Committee also notes that the word ‘document’ mentioned in clause 2(7) may be defined in consonance with the definition of the word ‘document’ in clause 2(c) of the Bharatiya Sakshya Bill, 2023. The Committee, therefore, recommends that the words ‘and includes electronic and digital records’ may be suitably incorporated in the existing definition proposed in the BNS.

Clause 4

3.4 This clause seeks to provide punishments for various offences provided under the provisions of the proposed Bill.

Suggestions

3.4.1 One of the domain experts informed the Committee that the meaning and consequences of the suggested alteration in the definition outlined in clause

4(b) of the BNS remains ambiguous. A potential interpretation suggests that clause 4(b) merely reflects the legal stance that life imprisonment essentially equates to a sentence for the entire duration of a person's life, with no changes to the Government's authority regarding early release. In this context, it becomes unclear why certain provisions introduced by the BNS mention 'imprisonment for life' as a possible sentence, while others explicitly define it as 'imprisonment for life, which shall mean the remainder of that person's natural life.' It was therefore suggested that clause 4(b) of BNS should be worded as:

“Imprisonment for life, which wherever hereinafter expressly specified, shall mean imprisonment for remainder of a person's natural life.”

Observations/ Recommendations

3.4.2 The Committee notes that the BNS proposes to change the definition of imprisonment for life, defining it as imprisonment for the remainder of a person's natural life. The corresponding section 53 of the IPC provides only for the punishment of life imprisonment simpliciter though in certain offences of sexual nature, imprisonment for the remainder of a person's natural life has been mentioned. The Courts have interpreted imprisonment for life simpliciter to mean 'whole life sentence'. The Committee recommends that suitable amendments may be made in consultation with the Ministry of Law & Justice to make clause 4(b) more comprehensive.

Suggestions

3.4.3 Almost all domain experts pointed out that the 'Community Service' as a punishment has been provided for petty offences namely - public servant engaging in unlawful trade; non-appearance in response to a proclamation under clause 82 of BNS; attempt to commit suicide to compel or restraint exercise of lawful power; first offence of theft of property (value under ₹ 5000); misconduct in public by a drunken person; and defamation. However, the Sanhita does not offer any explanation or clarification of what constitutes 'community service', even though it provides for community service as a penalty for minor offences.

3.4.4 It was suggested that community service should be defined under the definitions clause of BNS.

Observations/ Recommendations

3.4.5 The Committee notes that the introduction of ‘Community Service’ under clause 4(f) of the BNS is a welcome step. This is a very commendable effort and a reformatory approach to tackle the delinquent. Its introduction as a punishment was appreciated by all stakeholders as it shall not only reduce the burden on the prison infrastructure by reducing the number of prison inmates but also improve the management of prisons in the country. However, the term and nature of ‘community service’ has not been specified.

3.4.6 In this regard, the Committee observes that Community Service represents a form of unpaid work that offenders might be obligated to undertake as an alternative to incarceration. The Committee, therefore, recommends that the term and nature of ‘community service’ should be specified and suitably defined.

3.4.7 The Committee also recommends that while inserting definition of the phrase ‘Community Service’ in the proposed law, a provision may also be made with regard to making a person responsible to supervise the punishment given in the form of community service.

Clause 5

3.5 This clause seeks to empower the appropriate Government to commute the sentence of death or imprisonment for life.

Observations/ Recommendations

3.5.1 The Committee after careful consideration notes that there is a discrepancy between clause 5 of BNS and clause 475 of BNSS with regard to commutation of death and life imprisonment sentences. The Committee recommends that clauses 5(a) and 5(b) of BNS may be changed to bring it in conformity with clauses 475(a) and 475(b) of BNSS respectively.

Clause 22

3.6 *This clause seeks to provide that nothing is an offence which is done by a person who, at the time of doing it, by reason of mental illness, is incapable of knowing the nature of the act, or that he is doing what is either wrong or contrary to law.*

Suggestions

3.6.1 Various domain experts stated that section 84 of IPC corresponds to clause 22 in BNS. The Government has changed the word ‘unsound mind’ in section 84 of IPC to ‘mental illness’ in the corresponding clause 22 of BNS. Now, as per clause 22 of BNS, nothing is an offence which is done by a person who is mentally ill. The definition of ‘mental illness’ in BNS is derived from the Mental Health Care Act, 2017 which says –

‘mental illness means a substantial disorder of thinking, mood, perception, orientation or memory that grossly impairs judgment, behaviour, capacity to recognise reality or ability to meet the ordinary demands of life, mental conditions associated with the abuse of alcohol and drugs, but does not include mental retardation which is a condition of arrested or incomplete development of mind of a person, specially characterised by sub-normality of intelligence’.

3.6.2 It was further suggested that the definition of “mental illness” under the Mental Healthcare Act, 2017 is too wide in its scope and ambit and can include drug addiction and alcohol addiction. It can only prove medical insanity and not legal insanity and therefore needs to be re-drafted.

Observations/ Recommendations

3.6.3 The Committee observes that in Indian Penal Code, the term a person of unsound mind carried a restricted interpretation as per judicial precedents and was available as a defence for the accused. The Committee is of the view that mere medical insanity cannot be a ground for acquittal of the accused and legal insanity is required to be proved for claiming a valid defence. However, the term mental illness is too wide in its import in comparison to unsound mind, as it appears to include even mood swings or voluntary intoxication within its ambit.

3.6.4 The Committee is also of the view that such a frivolous claim if recognised as a valid defence, will spell doom for the prosecution as all defences will be claimed under this provision, thereby defeating the very purpose of this Sanhita. The Committee accordingly recommends that the word ‘mental illness’ in this Sanhita may be changed to ‘unsound mind’ wherever it occurs, as the present one can create problems during the trial stage as an accused person can simply show that he was under the influence of alcohol or drugs during the time of the commission of crime and he cannot be prosecuted even if he has committed the crime without intoxication.

Clause 23

3.7 This clause seeks to provide that nothing is an offence which is done by a person under intoxication unless that the thing which intoxicated him was administered to him without his knowledge or against his will.

Observations/Recommendations

3.7.1 The Committee notes a minor correction and recommends that the word ‘unless’ may be replaced with the word ‘provided’. This change will make sure that the onus is on the accused to prove that he/she was intoxicated.

Clause 48

3.8 This clause seeks to provide that a person abets an offence within the meaning of this Sanhita who, without and beyond India, abets the commission of any act in India which would constitute an offence if committed in India.

Suggestions

3.8.1 The Committee was informed that clause 48 is the new insertion in the Sanhita. Earlier, if a person sitting in India is abetting an offence, he could be prosecuted but now if somebody is outside the territorial jurisdiction and abetting a crime which is an offence in India, would also be subjected to criminal prosecution.

3.8.2 It was further informed that in *Fatima Bibi Ahmed Patel v. State of Gujarat* (2008), it was held that section 4 of IPC extended the scope of territorial jurisdiction of Indian courts to try a case even if the cause of action took place

outside geographical limits of India and the Parliament indisputably may enact legislation having extra-territorial application but the same may be applied subject to the fulfilment of the requirement contained thereon. However, Members raised concerns as to how one could possibly execute or implement the sentence awarded to somebody who is not available physically.

Observations/ Recommendations

3.8.3 The Committee appreciates that the Government has introduced a new clause 48 in the proposed Bharatiya Nyaya Sanhita to allow prosecution of a person located in foreign country who abets the commission of any act in India which would constitute an offence if committed in India. The Supreme Court of India in the year 2008 had opined that the Parliament may come out with an appropriate legislation in this regard. The Committee feels that addition of this provision has given effect to the opinion of the Supreme Court. Prior to this proposed provision, there was no law to prosecute a person located outside India and who abets the commission of an offence in India. However, the Committee contemplates that execution of sentence outside territorial jurisdiction of the country would still be strictly governed by the international treaties. It is pertinent that clause 356 of BNSS - 'Inquiry trial or judgment in absentia of proclaimed offender' and clause 112 of BNSS – 'letter of request to competent authority for investigation in a country or place outside India' are put to use with seriousness in order to bring the offenders to justice under section 48 of BNS.

Clause 63

3.9 This clause seeks to provide for definition of rape and various circumstances under which the offence shall be treated as rape.

Observations/ Recommendations

3.9.1 The Committee has noted that Supreme Court had read down the section 375 of IPC as far as the age of sexual consent for married women is concerned and had also raised the same to 18 years in conformity with POCSO Act. The Committee now appreciates that the proposed Sanhita has raised the age of sexual consent for married women provided under Exception

2 of this clause from 15 to 18 years. It gives legislative effect to the Supreme Court judgement in Independent Thought v. Union of India case (2017).

Clause 67

3.10 This clause seeks to provide for punishment of a person to two years which may extend to seven years and also liable for fine if such person commits sexual intercourse with his own wife during separation whether under a decree of separation or otherwise, without her consent.

Observations/ Recommendations

3.10.1 The Committee notes minor modifications in this clause and recommends deletion of the words “or by person in authority” from the marginal heading of clause and deletion of the word ‘own’ in the first line of this clause as it is redundant.

Clause 69

3.11 This clause seeks to provide that 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.

Observations/Recommendations

3.11.1 The Committee has noted minor typographical error which needs correction and recommends replacing the word “marring” in the Explanation to clause 69 with “marrying”. The Committee also recommends addition of the words “or marital status” after the words “suppressing identity” in the Explanation part of this clause, for the reason that there are plethora of cases that have been decided by the judiciary wherein the accused has deceived multiple women into marrying him or having sexual intercourse with him, without revealing that he is already married. Hence, ideally, concealing one’s marital status should also constitute “deceitful means”.

Clause 70

3.12 This clause seeks to provide for punishment for gang rape, by one or more persons, to 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 and also provide for punishment for imprisonment for life or with death when a gang rape is committed with a woman under eighteen years of age.

Suggestions

3.12.1 The domain experts extensively deliberated on the topic of ‘gang rape of a woman’. With respect to the ‘gang rape’, the MHA has merged sections 376D, 376DA, and 376DB of IPC and introduced it as clause 70(1) and (2) in the proposed legislation. The proposed clause 70 of the BNS has enhanced the age-based qualifiers to consider gang rape of any minor women from 16 to 18 years. Further, it considers gang rape of all minor women as aggravated offence and punishes the offenders with imprisonment for life, which shall mean imprisonment for the remainder of that person’s natural life, and with fine, or with death.

Observations/Recommendations

3.12.2 The Committee welcomes the changes introduced in this clause *vis-à-vis* relevant sections of IPC. The removal of age-based qualifiers to consider gang rape of any minor woman as an aggravated offence is in line with the position under Protection of Children from Sexual Offences (POCSO). Further, the minimum sentence for gang rape of a minor woman under the Sanhita which is ‘whole life sentence’ is greater than the minimum sentence under POCSO which is regular imprisonment for 20 years.

Clause 72

3.13 This clause seeks to provide for punishment to offender who prints or publishes, the name or any matter which may make known the identity of any person against whom an offence under section 63 or section 64 or section 65 or section 66 or section 67 or section 68 is alleged or found to have been committed (hereafter in this section referred to as the victim), with imprisonment of either

description for a term which may extend to two years and shall also be liable to fine subject to certain conditions.

Suggestions

3.13.1 The experts opined that the term ‘minor’ appears only once throughout the Sanhita and it is in clause 72(2)(c), while the term ‘child’ is consistently used throughout the Bill. Further, all child-centric legislations such as the Juvenile Justice Act, 2015, the POCSO Act, 2012, etc. use the term ‘child’ instead of ‘minor’.

Observations/ Recommendations

3.13.2 The Committee agrees with the opinion expressed by the experts and recommends that the word ‘minor’ in clause 72(2)(c) may be replaced with the word ‘child’.

Clause 75 & 76

3.14 These clauses seek to provide that whoever assaults or uses criminal force to any woman or abets such act with the intention of disrobing or compelling her to be naked, shall be punished with imprisonment of either description for a term which shall not be less than three years but which may extend to seven years, and shall also be liable to fine.

3.15 These clauses seek to provide for punishment for voyeurism, such as watching or capturing the image of a woman engaging in a private act in circumstances where she would usually have the expectation of not being observed either by the perpetrator or by any other person, at the behest of the perpetrator or disseminates such image and punishment thereof.

Suggestions

3.15.1 The provisions relating to ‘disrobing’ and ‘Voyeurism’ were taken up together for discussion during the meetings of the Committee with the domain experts. The experts opined that the offences of disrobing and voyeurism have been made gender neutral so far as the accused is concerned. The instances of perpetrators disseminating the images of woman as mentioned in clause 76 are on the rise in recent times. Such acts are an outrage on the modesty of a woman

thereby taking a toll on the lives of women leading to mental and physical agony particularly when such images go viral on the internet.

Observations/ Recommendations

3.15.2 The Committee lauds the efforts of the Government in introducing gender neutrality wherever possible and in bringing all the offences committed on women and children under one chapter and in giving them precedence. As mentioned in the Statement of Objects, it shows a citizen centric approach.

Clause 93

3.16 This clause seeks to provide that whoever hires, employs or engages any person below the age of eighteen years to commit an offence shall be punished with imprisonment of either description or fine provided for that offence as if the offence has been committed by such person himself.

Observations/ Recommendations

3.16.1 The Committee notes that clause 93 regarding hiring, employing or engaging a child to commit an offence is a very serious form of offence, which was, so far, not taken note of, even by the Courts and the Legislatures. The Committee lauds the efforts of the Government in introducing this new provision.

Clause 94

3.17 This clause seeks to provide that whoever, by any means whatsoever, induces any child below the age of eighteen years to go from any place or to do any act with intent that such child below the age of eighteen years may be, or knowing that it is likely that such child will be, forced or seduced to illicit intercourse with another person shall be punishable with imprisonment which may extend to ten years, and shall also be liable to fine.

Suggestions

3.17.1 Home Ministry informed that Committee that the word ‘minor girl’ in the 366A of IPC has been replaced with the word ‘child’ in the corresponding

clause 94 of the BNS, which includes both male and female children below 18 years of age. The modification was made to cover the cases of procurement of young boys for sexual exploitation. Further the Ministry in its response to a memorandum received by the Committee which suggested that the '*definition of child should also include trans-kids*' informed the Committee that the definition of 'child' may be considered for inclusion to define 'child' as a person below the age of 18 years and the person will include trans-kids.

Observations/ Recommendations

3.17.2 The Committee agrees with the suggestion provided by the Ministry in this regard and recommends that the word 'child' may be defined as 'a person below the age of 18 years' and included in the definition clause of the Sanhita.

Clause 101

3.18 This clause seeks to provide punishment for murder which shall be death or imprisonment for life, and also fine. Sub-Clause (2) further provides that when a murder is committed by a group of five or more persons acting in concert 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.

Suggestions

3.18.1 Domain experts debated that the offence under clause 101 of BNS is an aggravated form of murder and hence the alternate punishment of 7 years imprisonment may be removed. On the contrary, it was also debated that the alternate punishment of 7 years imprisonment may be provided under clause 101(2) to allow courts to have discretion in deciding the punishment for the accused persons to match with the degree of their participation in the crime.

Observations/ Recommendations

3.18.2 The Committee notes that the Sanhita includes a new provision for offence under clause 101(2) in line with the Supreme Court of India

recommendation in Tehsin S Poonawalla v. Union of India case (2018). The issue regarding provision of an alternate punishment of seven years imprisonment to an accused under clause 101(2), was debated in detail in the Committee. The Committee recommends to the Government that the punishment of 7 years from the clause may be deleted. It is also recommended that opinion of learned Attorney General and Solicitor General of the country may be sought in this regard.

Clause 102

3.19 This clause seeks to provide that whoever, being under sentence of imprisonment for life, commits murder, shall be punished with death or with imprisonment for life, which shall mean the remainder of that person's natural life.

Suggestions

3.19.1 The Home Ministry informed the Committee that the Supreme Court of India had struck down section 303 of IPC that provided punishment for murder by life-convict and that the BNS proposes to bring back the same by removing infirmity in the provision. It may be noted that section 303 of IPC imposes death penalty as a punishment for the offence of murder committed by a life convict. The Supreme Court in *Mithu v. State of Punjab* case (1983) held section 303 of IPC as arbitrary and unreasonable as there was only one mandatory death punishment. It took away judicial discretion and no right to sentence hearing. Now the proposed clause 102 of BNS has cured this defect by giving alternate punishments. A similar alternative punishment has been provided under clause 107(2) for attempt to murder (if hurt is caused) by life-convict.

Observations/ Recommendations

3.19.2 The Committee compliments the Government for providing a legislative effect to the judicial pronouncement of a five-judge bench of the Supreme Court of India in *Mithu v. State of Punjab* case (1983), thereby closing the arbitrary distinction between persons committing murder and persons undergoing life imprisonment who committed murder.

Clause 104

3.20 This clause seeks to provide that whoever causes the death of any person by doing any rash or negligent act not amounting to culpable homicide, shall be punished with imprisonment of either description for a term which may extend to seven years and shall also be liable to fine. It further provides that whoever causes death of any person by doing any rash or negligent act not amounting to culpable homicide and escapes from the scene of incident or fails to report the incident to a Police officer or Magistrate soon after the incident, shall be punished with imprisonment of either description of a term which may extend to ten years and shall also be liable to fine.

Suggestions

3.20.1 It was suggested by some Members of the Committee that the punishment provided under clause 104(1) is high as compared to section 304A, IPC, which is proposed to be replaced by clause 104(1) in BNS. Members further noted that the punishment provided under section 304A is imprisonment of either description for a term which may extend to two years, or with fine, or with both, however, the punishment provided in the proposed law under clause 104(1) is imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine. On this background, it was suggested that neither intention nor knowledge to cause death is present in the offence, therefore, enhancement of punishment from existing two years to seven years, may not be reasonable, hence the punishment provided under clause 104(1), BNS may accordingly be reduced.

Observations/ Recommendations

3.20.2 The Committee feels that the punishment provided under clause 104(1) is high as compared to the provision for the same offence under section 304A of IPC. The Committee, therefore, recommends that the proposed punishment under clause 104(1) may be reduced from seven years to five years.

Suggestions

3.20.3 The Committee was informed that currently hit and run cases resulting in death due to reckless and negligent driving are registered u/s 304A IPC, with maximum penalty of two years of imprisonment. The legal experts expressed that as per Delhi Road Crash Report of 2021, there were 555 cases (46.01% of total cases) where the registration number of vehicles involved in crime were unknown, signifying hit and run cases. It was also brought to the notice of the Committee that the Supreme Court had in several cases observed on the inadequacy of law in view of increased vehicular accident. It was reasoned that to address this issue, the new provision has been introduced under clause 104(2), which was long overdue.

3.20.4 The Committee understands that clause 104(2) has been introduced to cover the hit and run accidents and to ensure reporting of accident immediately. This is introduced with an aim to save the victim within the critical 'Golden Hour' a term introduced in the Motor Vehicles Act, 1988 in the year 2019. However, it is observed that the expression 'hit and run' has not been used in the Sanhita anywhere. It is unclear whether both the duties of not escaping from the scene of incident and reporting of the incident are to be fulfilled. The Sanhita doesn't contemplate specific situations where it may not be possible to fulfil both the duties. (Example: Perpetrator not having mobile phone or fear of violent assault from bystanders). It is also unclear whether the provision is limited to motor vehicle accidents only or not. There may be cases where the death of a victim is not immediate or the perpetrator is not present in the scene of incident. (Example: Falling of bridge, medical negligence). Further, it has also suggested that this clause violates Article 20 (3) of the Constitution.

Observations/ Recommendations

3.20.5 The Committee is of the view that clause 104(2) may be against the Article 20(3) of the Constitution of India which says - 'No person accused of an offence shall be compelled to be a witness against himself'. But, the Supreme Court has widened the scope of this immunity by interpreting the word 'witness' to include oral as well as documentary evidence so that no person can be compelled to be a witness to support a prosecution against

himself. Hence, further contemplation is required, if the Government still seeks to retain this new provision.

3.20.6 The Committee recommends that if this provision has to be retained, the Government should limit the application of clause 104 (2) to motor vehicle accidents only. In addition to that, the expression ‘or fails’ should be replaced with ‘and fails’ to provide for easier prosecution and less harsh punishment to a perpetrator who fulfils either of the duties mentioned in clause 104 (2); and the time period within which the perpetrator has to report the incident should be defined. In view of the above, the Committee recommends re-drafting this clause in consultation with the Ministry of Law & Justice.

Clause 109

3.21 This clause seeks to define organised crime to mean that continuing unlawful activity including kidnapping, robbery, vehicle theft, extortion, land grabbing, contract killing, economic offences, cyber-crimes having severe consequences, trafficking in people, drugs etc., and punishment thereof.

Suggestions

3.21.1 The experts opined that the issue of ‘organised crime’ had not hitherto been specifically dealt with under the Indian Penal Code (IPC). Although certain States come up with laws like Maharashtra Control of Organised Crime Act, 1999 (MCOCA); The Uttar Pradesh Gangsters and Anti-social Activities (Prevention) Act, 1986 to deal with this issue, there was no Central law specifically on this subject. Until now, a host of Central legislations such as the Customs Act, 1962, the Foreign Exchange Management Act, 1999, the Narcotics, Drugs and Psychotropic Substances Act, 1985, etc. were read with the relevant provisions of the IPC to deal with various facets of organised crime. Hence, there was a glaring need to have a provision specifically dealing with all aspects of organised crime with the scheme of the BNS.

3.21.2 Experts were also of the opinion that the inclusion of this provision on ‘organised crime’ in the BNS is very much laudable, however, certain terms in this provision such as ‘criminal organization’, lack a precise legal definition. Specific

phrases in clause 109 (5) penalize the act of harbouring, concealing, or attempting to do so for a person who “believes that his act will encourage or assist the commission of such a crime.” This phrasing is somewhat ambiguous and could potentially encompass harbouring or concealing someone who facilitates or aids the commission of organized crime. Therefore, it necessitates clarification. Moreover, it remains uncertain whether this provision covers foreign entities operating as criminal organizations from outside the territory of India. Further, there’s a lack of clarity regarding whether actual or constructive presence is required for individuals to act in concert for the purpose of committing the offence.

3.21.3 Compared with the Maharashtra State laws, MCOCA, clause 109(1) overall broadens the scope of organised crime. The main changes in clause 109 of BNS *vis-a-vis* MCOCA are: (i) Use of the expression 'acting in concert' in BNS which implies common intention or at least a common knowledge; (ii) Addition of corruption as a means to obtain benefit in BNS; (iii) Expanding the object by widening the definition of benefit, much beyond pecuniary benefit; (iv) Unlawful activity expanded to cover all cognizable offences (instead of those punishable with 3 years or more as in MCOCA); and (v) Definition of organised crime syndicate has been broadened to include criminal organisation also, though the minimum membership requirement for group has been increased from 2 to 3. However, the several terms like syndicate, gang, mafia, crime ring, gang criminality, racketeering and syndicated organised crime have been used but not defined anywhere in the Sanhita.

Observations/ Recommendations

3.21.4 The Committee observes that the existing laws were inadequate to tackle the menace of many serious offences like organised kidnapping, land grabbing, contract killing, extortion as also many major financial scams and large bank frauds. This will be a very effective addition in the substantive law. In this regard, the Committee recommends that the terms used like, gang, mafia, crime ring, gang criminality, racketeering, and serious offence may be defined; the term ‘criminal organization’ may also be defined clearly as it lacks a distinct definition, leaving uncertainty about the criteria for categorizing an organization as ‘criminal’ and any associated procedures for such classification.

3.21.5 As regards sub-clause (2), the Committee opines that there is no differentiation between the actual commission of an offence and an attempt to commit it. For purpose of introducing clarity, the Committee recommends that the penal provision for attempt and the commission of offence may be kept in separate clauses; as regards sub-clause (3), the element of *mens rea* should be introduced; the expression ‘group of three or more persons’ in Explanation (ii) of clause 109 (1) may be changed to ‘group of two or more persons’ to widen the scope of this law; and special procedural provisions in respect of this offence should be provided in BNSS for effective application of this clause. In view of the above, the Committee recommends re-drafting this clause in consultation with the Ministry of Law & Justice.

Suggestions

3.21.6 During the discussions in the Committee on this clause, it was pointed out that the words ‘knowingly that the said property is’ may be incorporated after the words ‘whoever, holds any property’ in sub-clause 6 of this section. It was reasoned out that there is a likely chance that a person who knowingly holds any property derived, or obtained from the commission of an organised crime or proceeds of any organised crime or which has been acquired through the organised crime syndicate funds may sell such property to a third person who for the purpose of this law has no knowledge of the fact that the property is obtained from the proceeds of an organised crime. In such a case, the third person in question shall attract sub-clause 6 of this clause and will be subject to punishment.

Observations/ Recommendations

3.21.7 In view of the above deliberation, the Committee recommends that the expression ‘knowingly that the said property is’ should be incorporated after the words ‘Whoever, holds any property’ in the sub-clause 6 of this clause in consultation with the Legislative Department to provide protection to the third person who may come to acquire the property from a person who knowingly held the property derived, or obtained from the commission of an organised crime.

Clause 110

3.22 This clause seeks to define petty organised crime as any crime that causes general feelings of insecurity among citizens relating to theft of vehicle or theft from vehicle, domestic and business theft, trick theft, cargo crime, theft (attempt to theft, theft of personal property),etc., and punishment thereof.

Suggestions

3.22.1 The experts informed the Committee that some offences like organised snatching of any movable property, pick pocketing, theft from vehicles by trickery, card skimming, ATM theft create sense of insecurity among the citizen. Introduction of this new offence is commendable for inculcating sense of security. One particular issue which has been creating a lot of furore is the large scale paper leakage and other manipulations in public examinations. Organised gangs are involved in such incidents. The existing law being inadequate, recently some States have enacted special laws to curb unfair means in the exams.

3.22.2 Clause 110 of the proposed BNS creates a new offence with no similar legislations. It penalises any crime that causes ‘general feelings of insecurity among citizens’ committed by organised criminal groups/ gangs including mobile organised crime groups. However, the term ‘general feelings of insecurity among citizens’ is too vague & ambiguous and needs to be defined. Similarly, there are some more provisions which need clarifications such as vehicle theft has appeared in both clauses 109 & 110, examination paper leak is not a serious offence, etc.

Observations/ Recommendations

3.22.3 The Committee takes note of all the concerns raised and recommends that the Government should redraft this clause in consultation with the Legislative Department to address the issues.

Clause 111

3.23 This clause seeks to provide that a terrorist act shall mean using bombs, dynamite or other explosive substance to cause damage or loss due to damage or destruction of property or to cause extensive interference with, damage or

destruction to critical infrastructure, etc., with the intention to threaten the unity, integrity and security of India, to intimidate the general public or a segment thereof, or to disturb public order.

Suggestions

3.23.1 It was deliberated in the Committee that the BNS proposes to introduce the offence of ‘terrorist act’ in the general Law. Now, ordinary specified crimes may be considered ‘terrorist act’ if committed with particular intent and mode. Presently, the offences relating to terrorism are dealt in the special law Unlawful Activities (Prevention) Act, 1967 (UAPA). Earlier such offences were dealt under the Terrorist and Disruptive Activities (Prevention) Act, 1987 (TADA) and Prevention of Terrorism Act, 2002 (POTA). There was a pressing need for a specific provision relating to a terrorist act within the penal code and hence, clause 111 of the BNS is a welcome introduction. However, certain phrases in this provision require re-wording or clarification.

Observations/ Recommendations

3.23.2 The Committee is of the view that – (i) The term ‘intimidation’ should be explained to settle the ambiguity in categorizing an act as a ‘terrorist act’; (ii) The element of *mens rea* should be introduced in clause 111(6); (iii) The expression ‘foreign country’ should be replaced with ‘anywhere outside India’ to widen the scope of clause to cover all offenders located outside India; and (iv) The word ‘sovereignty’ should be added before the word ‘unity’ under clause 111(1).

3.23.3 The Committee also recommends that a provision should also be made in the Bharatiya Nagarik Suraksha Sanhita, 2023 to the effect that before registering a criminal case/ FIR under this clause, there has to be an approval by a senior police officer to decide whether the FIR be registered under UAPA or under the BNS.

Clause 115

3.24 This clause seeks to define voluntarily causing grievous hurt and punishment thereof.

Suggestions

3.24.1 Domain expert had informed that the BNS has introduced a new provision against the crime of grievous hurt caused by mob without specifically using the term 'mob'. There are multiple instances where mobs cause grievous hurt to person(s) on grounds of religion and community but the said words are missing in clause 115(4). The expression 'acting in concert' is also missing in clause 115(4). The experts that appeared before the Committee also opined that clause 115(4) of the BNS, which addresses the aggravated form of grievous hurt inflicted by a mob, currently imposes the same punishment as that for grievous hurt under clause 115(2), even though the penalty should ideally be higher in the former case. Moreover, clause 114 of the BNS has made the definition of 'grievous hurt' more stringent by reducing the duration from twenty days as depicted in section 320 of IPC, 1860 to fifteen days.

Observations/ Recommendations

3.24.2 The Committee feels that in order to cover crimes committed on grounds of community, it is essential to explicitly incorporate the word 'community' in sub-clause 4 of this clause. It also feels that the expression 'acting in concert' should also be included in the said sub-clause (4).

Suggestions

3.24.3 The Committee also discussed the memoranda submitted by various medical associations requesting to introduce provisions under clause 115 to penalise acts of violence against healthcare service personnel. It was submitted before the Committee that unlike in any other professions, the healthcare professionals are vulnerable to violent attacks by the relatives of patients, in cases where patients die during treatment. Such violent attacks against healthcare personnel are prevalent throughout the country and there is a need to provide some legal safeguards for the benefit of healthcare workers.

3.24.4 The Home Ministry in its response submitted to the Committee that the general penal provisions are applicable to all and no distinction is made in the penal laws for any class of person. Everyone is equal in the eyes of law. The State is duty bound to protect life of all its citizens including doctors and professionals

like media persons, advocate, bankers, chartered accountants, etc. Making a special provision for doctors and other health care professionals may give rise to similar demands from other professionals like media persons, advocate, bankers, chartered accountants, etc. Further, the Home Ministry also informed the Committee that the Ministry of Health & Family Welfare has a proposal to introduce a 'Medical Professionals Act' to provide safeguards to healthcare workers against violent attacks, and that the Ministry of Home Affairs would take update from the Ministry of Health & Family Welfare on the same.

Observations/Recommendations

3.24.5 After considering the concerns of the healthcare personnel, the Committee opines that the Government may consider introducing appropriate legal safeguards for healthcare workers.

Clause 130

3.25 This clause seeks to provide punishment for assault or criminal force to deter public servant from discharge of his duty.

Suggestions

3.25.1 Some Members of the Committee submitted that section 353 under IPC which corresponds to clause 130 of BNS is widely misused by the public servants in the name of deterrence. As the political demonstrations are the soul of democracy and there are instances in the past when political leaders were harassed and falsely convicted for offences under this section of IPC while demonstrating, therefore, it was suggested that the punishment under this clause may be reduced.

Observations/Recommendations

3.25.2 The Committee agrees with the submission made before it and recommends that the punishment provided under clause 130 may be reduced from two years to one year.

Clause 150

3.26 This clause seeks to provide for acts endangering sovereignty unity and integrity of India and punishment thereof.

Suggestions

3.26.1 The Committee deliberated on this clause very extensively. It was noted that the most prominent aspect of the BNS is the complete repeal of the sedition law. However, the provisions within the sedition law that are suggested for removal are somehow retained in clause 150 in mild form addressing actions that jeopardize the sovereignty, unity, and integrity of India.

3.26.2 Under the existing sedition law, section 124A of the IPC, individuals found guilty of promoting discontent or disaffection towards the Government could face life imprisonment and a possible fine. This broadly covers various acts such as spoken or written words, signs, or gestures that express hatred or contempt towards the state or excite disaffection against it. The proposed clause 150 of the BNS, 2023 maintains concerns for national integrity and sovereignty but rephrases the offence. Instead of using “*sedition*” the new clause terms the act as “*endangering sovereignty, unity, and integrity of India*”

Observations/ Recommendations

3.26.3 The Committee compliments the Government in deleting the term ‘sedition’ from criminal law by rephrasing it without compromising the security of the state. The Committee finds it as a very progressive development. It is observed that in the Explanation part of clause, due to typographical error the sentence remains incomplete. The words ‘*do not constitute offence under this section*’ may be added at the end.

Clause 157

3.27 *This clause seeks to provide for abetting mutiny, or attempting to seduce a soldier, sailor or airman from his duty and punishment thereof.*

Observations/ Recommendations

3.27.1 The Committee recommends the rearrangement of clause by replacing the words ‘*Air Force subject to the Acts referred to in section 165 of the Government of India*’ with ‘*Air Force of the Government of India subject to the Acts referred to in section 165*’.

Clause 167 TO 175

3.28 *Clauses 167 to 175 in Chapter IX deals with the offences relating to Elections.*

Suggestions

3.28.1 Some members of the Committee were of the view that the Chapter IX on ‘offences relating to elections’ is not required in the Bharatiya Nyaya Sanhita as the special Act i.e Representation of People Act, 1951, deals with them in detail and all provisions under this Chapter IX may be incorporated suitably in the Representation of People Act, 1951.

3.28.2 The Ministry of Home Affairs submitted that there is a basic difference between the Representation of People Act, 1951 and the proposed clauses under Chapter IX of BNS. The Representation of People Act applies only to Parliament and Legislative Assemblies elections whereas the offences listed under Chapter IX of BNS apply to all elections which include Municipal elections and Panchayat elections. If the Chapter IX is removed, then the State Governments will have to enact separate Laws to cover other elections. This shall lead to lack of uniformity in laws governing elections other than Parliamentary and Legislative Assembly elections.

Observations/ Recommendations

3.28.3 In view of the above submission, the Committee agrees with the views of the Ministry and opines that the Chapter IX may continue to be a part of Bharatiya Nyaya Sanhita.

Clause 198

3.29 *This clause seeks to provide for punishment for non-treatment of victim and punishment thereof.*

Observations/ Recommendations

3.29.1 The Committee notes a minor correction in this clause and recommends that the words ‘section 449 of the Bharatiya Nagarik Suraksha

Sanhita, 2023 may be replaced with the words ‘**section 397 of the Bharatiya Nagarik Suraksha Sanhita, 2023**’.

Clause 272

3.30 This clause seeks to provide for adulteration of food or drink intended for sale and punishment thereof.

Suggestions

3.30.1 Domain experts submitted that the offence of adulterating food articles is very serious. It is a threat to public health safety. Consumption of adulterated food leads to adverse health consequences and can be fatal. There have also been numerous instances of adverse impact on public health due to food adulteration and therefore there is a need to enhance the punishment and the fine under this clause. It was also mentioned that most of the cases under the Prevention of Food Adulteration Act, 1954 are acquitted because of procedural lapses in sample collection, etc.

Observations/ Recommendations

3.30.2 In view of the serious health issues that can result from the consumption of adulterated food, the Committee observes that the offence of food adulteration affects the public at large and that the punishment provided for the offenders under this clause is inadequate. The Committee recommends that a minimum punishment of six months be provided for the offence under this clause along with a minimum fine of ₹25,000.

Clause 273

3.31 This clause seeks to provide for sale of noxious food or drink and punishment thereof.

Suggestions

3.31.1 Suggestion to increase the punishment and fine for offence under this clause was also discussed. Consumption of noxious food leads to adverse health consequences and can be fatal. There have also been numerous instances of adverse impact on public health due to consumption of noxious food.

Observations/ Recommendations

3.31.2 In view of the serious health issues that can result from the sale of noxious food, the Committee observes that the offence has the potential to affect the public at large and that the punishment provided for the offenders under this clause is inadequate. The Committee recommends that a minimum punishment of six months be provided for the offence under this clause along with a minimum fine of ₹10,000.

3.31.3 The Committee also undertook a detailed examination of the text of each clause and noted that the Bharatiya Nyaya Sanhita contains some typographical and grammatical errors. The Committee is of the view that even a single typographical or grammatical error in the Sanhita has the potential to be misinterpreted and diluting the intent of the provision. The Committee, therefore, recommends the Ministry to rectify such typographical and grammatical errors.

3.31.4 The Committee agrees with the remaining clauses of the Sanhita without any changes. The Committee strongly believes that the newly introduced Bharatiya Nyaya Sanhita would strengthen law and order and also focus on simplifying legal procedure so that ease of living is ensured to the common man. It shall also make the proposed law relevant to the contemporary situation and provide speedy justice to common man.

OBSERVATIONS/RECOMMENDATIONS — AT A GLANCE

The Committee has taken note of the milestone initiative of the Government for bringing these legislations, which shall form the bedrock of our criminal justice administration. The Committee is of the view that the process of consultation undertaken has been exhaustive and comprehensive. The Committee appreciates the work done by the Ministry of Home Affairs and the Ministry of Law & Justice in undertaking this mammoth task of drafting comprehensive amendments to the criminal laws and 4 years of intense discussions for making new laws that imbibe Indian thought process and the Indian soul. A comprehensive review of criminal justice system in our country was a need of the hour to bring it on par with the contemporary aspirations of the people. Having taken a citizen-centric approach, these proposed laws serve as a reassurance to the Indian citizens. The Committee feels that these Bills are much-awaited and much-needed reforms as well as imperative for smooth and transparent functioning of our legal system.

(Para 1.10)

The Committee observes that in *Navtej Singh Johar v. Union of India (2018)* case, a five-judge bench of the Supreme Court unanimously held that section 377 of IPC is in violation of Articles 14, 15, 19, and 21 of the Constitution of India. Provisions of section 377, however, remain applicable in cases of non-consensual carnal intercourse with adults, all acts of carnal intercourse with minors, and acts of bestiality. However, now, in the *Bharatiya Nyaya Sanhita, 2023*, no provision for non-consensual sexual offence against male, female, transgender and for bestiality has been made.

(Para 1.16)

The Committee feels that to align with the objectives stated in the BNS's Statement of Objects and Reasons, which *inter-alia* highlights the move towards gender-neutral offences, it is mandatory to reintroduce and retain the section 377 of the IPC. The Committee therefore recommends the Government to include section 377 of IPC, in the proposed law.

(Para 1.17)

The Committee notes that the Supreme Court Bench headed by the then Chief Justice of India, in the Joseph Shine v. Union of India, 2018 case struck down section 497 of IPC as it violated Articles 14, 15, and 21 of the Constitution. The Court held that this law was archaic, arbitrary and paternalistic and infringed upon a woman’s autonomy, dignity and privacy. The provisions under this section only penalised the married man, and reduced the married woman to be a property of her husband. In this regard, the Committee is of the view that the institution of marriage is considered sacred in Indian society and there is a need to safeguard its sanctity. For the sake of protecting the institution of marriage, this section should be retained in the Sanhita by making it gender neutral.

(Para 1.19)

The Committee after considering the submissions regarding the death penalty has understood that the reason for a passionate argument against death penalty is that the judicial system can be fallible and to prevent an innocent person from being wrongly sentenced to death. In this regard, the Committee recommends that the matter may be left for the Government to consider.

(Para 2.12)

The Committee notes the wording of Article 348 of the Constitution of India which says that language to be used in the Supreme Court and in the High Courts, as well as for acts, bills and other legal documents shall be in English language. The Committee finds that as the text of the Sanhita is in English, it does not violate the provisions of Article 348 of the Constitution. The Committee is satisfied with the response of the Ministry and holds that the name given to the proposed legislation is not in violation of Article 348 of the Constitution of India.

(Para 3.2.2)

The Committee lauds the efforts of the Government in logically reorganising the Chapter on ‘General Explanations’ in IPC containing sections from 6 to 52A into clause 2 on ‘definitions’ and clause 3 on ‘general

explanations’ under Chapter I of BNS. Sub-clauses in ‘definitions’ have been alphabetically arranged which is not the case in IPC. The deleting of the expressions like British, Queen, etc., is also a welcome step in the direction of legal decolonisation.

(Para 3.3.4)

The Committee notes the widening of the ‘gender’ definition in the BNS. Considering the fact that the population of transgender persons is 4,87,803 (as per the Census 2011), the Committee appreciates that the scope of gender under clause 2(9) has been expanded by the Government to make it more inclusive. This change gives effect to the rights of transgender persons recognised by the Supreme Court in the *Navtej Singh Johar v. Union of India case, 2018*.

(Para 3.3.5)

The Committee also notes that the word ‘document’ mentioned in clause 2(7) may be defined in consonance with the definition of the word ‘document’ in clause 2(c) of the Bharatiya Sakshya Bill, 2023. The Committee, therefore, recommends that the words ‘and includes electronic and digital records’ may be suitably incorporated in the existing definition proposed in the BNS.

(Para 3.3.6)

The Committee notes that the BNS proposes to change the definition of imprisonment for life, defining it as imprisonment for the remainder of a person’s natural life. The corresponding section 53 of the IPC provides only for the punishment of life imprisonment simpliciter though in certain offences of sexual nature, imprisonment for the remainder of a person’s natural life has been mentioned. The Courts have interpreted imprisonment for life simpliciter to mean ‘whole life sentence’. The Committee recommends that suitable amendments may be made in consultation with the Ministry of Law & Justice to make clause 4(b) more comprehensive.

(Para 3.4.2)

The Committee notes that the introduction of ‘Community Service’ under clause 4(f) of the BNS is a welcome step. This is a very commendable effort and a reformatory approach to tackle the delinquent. Its introduction as a punishment was appreciated by all stakeholders as it shall not only reduce the burden on the prison infrastructure by reducing the number of prison inmates but also improve the management of prisons in the country. However, the term and nature of ‘community service’ has not been specified.

(Para 3.4.5)

In this regard, the Committee observes that Community Service represents a form of unpaid work that offenders might be obligated to undertake as an alternative to incarceration. The Committee, therefore, recommends that the term and nature of ‘community service’ should be specified and suitably defined.

(Para 3.4.6)

The Committee also recommends that while inserting definition of the phrase ‘Community Service’ in the proposed law, a provision may also be made with regard to making a person responsible to supervise the punishment given in the form of community service.

(Para 3.4.7)

The Committee after careful consideration notes that there is a discrepancy between clause 5 of BNS and clause 475 of BNSS with regard to commutation of death and life imprisonment sentences. The Committee recommends that clauses 5(a) and 5(b) of BNS may be changed to bring it in conformity with clauses 475(a) and 475(b) of BNSS respectively.

(Para 3.5.1)

The Committee observes that in Indian Penal Code, the term a person of unsound mind carried a restricted interpretation as per judicial precedents and was available as a defence for the accused. The Committee is of the view that mere medical insanity cannot be a ground for acquittal of the accused and legal insanity is required to be proved for claiming a valid defence.

However, the term mental illness is too wide in its import in comparison to unsound mind, as it appears to include even mood swings or voluntary intoxication within its ambit.

(Para 3.6.3)

The Committee is also of the view that such a frivolous claim if recognised as a valid defence, will spell doom for the prosecution as all defences will be claimed under this provision, thereby defeating the very purpose of this Sanhita. The Committee accordingly recommends that the word 'mental illness' in this Sanhita may be changed to 'unsound mind' wherever it occurs, as the present one can create problems during the trial stage as an accused person can simply show that he was under the influence of alcohol or drugs during the time of the commission of crime and he cannot be prosecuted even if he has committed the crime without intoxication.

(Para 3.6.4)

The Committee notes a minor correction and recommends that the word 'unless' may be replaced with the word 'provided'. This change will make sure that the onus is on the accused to prove that he/she was intoxicated.

(Para 3.7.1)

The Committee appreciates that the Government has introduced a new clause 48 in the proposed Bharatiya Nyaya Sanhita to allow prosecution of a person located in foreign country who abets the commission of any act in India which would constitute an offence if committed in India. The Supreme Court of India in the year 2008 had opined that the Parliament may come out with an appropriate legislation in this regard. The Committee feels that addition of this provision has given effect to the opinion of the Supreme Court. Prior to this proposed provision, there was no law to prosecute a person located outside India and who abets the commission of an offence in India. However, the Committee contemplates that execution of sentence outside territorial jurisdiction of the country would still be strictly governed by the international treaties. It is pertinent that clause 356 of BNSS - 'Inquiry trial or judgment in absentia of proclaimed offender' and clause 112 of BNSS

– ‘letter of request to competent authority for investigation in a country or place outside India’ are put to use with seriousness in order to bring the offenders to justice under Section 48 of BNS.

(Para 3.8.3)

The Committee has noted that Supreme Court had read down the section 375 of IPC as far as the age of sexual consent for married women is concerned and had also raised the same to 18 years in conformity with POCSO Act. The Committee now appreciates that the proposed Sanhita has raised the age of sexual consent for married women provided under Exception 2 of this clause from 15 to 18 years. It gives legislative effect to the Supreme Court judgement in Independent Thought v. Union of India case (2017).

(Para 3.9.1)

The Committee notes minor modifications in this clause and recommends deletion of the words “or by person in authority” from the marginal heading of clause and deletion of the word ‘own’ in the first line of this clause as it is redundant.

(Para 3.10.1)

The Committee has noted minor typographical error which needs correction and recommends replacing the word “marring” in the Explanation to clause 69 with “marrying”. The Committee also recommends addition of the words “or marital status” after the words “suppressing identity” in the Explanation part of this clause, for the reason that there are plethora of cases that have been decided by the judiciary wherein the accused has deceived multiple women into marrying him or having sexual intercourse with him, without revealing that he is already married. Hence, ideally, concealing one’s marital status should also constitute “deceitful means”.

(Para 3.11.1)

The Committee welcomes the changes introduced in this clause *vis-à-vis* relevant sections of IPC. The removal of age-based qualifiers to consider gang rape of any minor woman as an aggravated offence is in line with the position

under Protection of Children from Sexual Offences (POCSO). Further, the minimum sentence for gang rape of a minor woman under the Sanhita which is ‘whole life sentence’ is greater than the minimum sentence under POCSO which is regular imprisonment for 20 years.

(Para 3.12.2)

The Committee agrees with the opinion expressed by the experts and recommends that the word ‘minor’ in clause 72(2)(c) may be replaced with the word ‘child’.

(Para 3.13.2)

The Committee lauds the efforts of the Government in introducing gender neutrality wherever possible and in bringing all the offences committed on women and children under one chapter and in giving them precedence. As mentioned in the Statement of Objects, it shows a citizen centric approach.

(Para 3.15.2)

The Committee notes that clause 93 regarding hiring, employing or engaging a child to commit an offence is a very serious form of offence, which was, so far, not taken note of, even by the Courts and the Legislatures. The Committee lauds the efforts of the Government in introducing this new provision.

(Para 3.16.1)

The Committee agrees with the suggestion provided by the Ministry in this regard and recommends that the word ‘child’ may be defined as ‘a person below the age of 18 years’ and included in the definition clause of the Sanhita.

(Para 3.17.2)

The Committee notes that the Sanhita includes a new provision for offence under clause 101(2) in line with the Supreme Court of India recommendation in Tehsin S Poonawalla v. Union of India case (2018). The issue regarding provision of an alternate punishment of seven years

imprisonment to an accused under clause 101(2), was debated in detail in the Committee. The Committee recommends to the Government that the punishment of 7 years from the clause may be deleted. It is also recommended that opinion of learned Attorney General and Solicitor General of the country may be sought in this regard.

(Para 3.18.2)

The Committee compliments the Government for providing a legislative effect to the judicial pronouncement of a five-judge bench of the Supreme Court of India in *Mithu v. State of Punjab* case (1983), thereby closing the arbitrary distinction between persons committing murder and persons undergoing life imprisonment who committed murder.

(Para 3.19.2)

The Committee feels that the punishment provided under clause 104(1) is high as compared to the provision for the same offence under section 304A of IPC. The Committee, therefore, recommends that the proposed punishment under clause 104(1) may be reduced from seven years to five years.

(Para 3.20.2)

The Committee is of the view that clause 104(2) may be against the Article 20(3) of the Constitution of India which says - 'No person accused of an offence shall be compelled to be a witness against himself'. But, the Supreme Court has widened the scope of this immunity by interpreting the word 'witness' to include oral as well as documentary evidence so that no person can be compelled to be a witness to support a prosecution against himself. Hence, further contemplation is required, if the Government still seeks to retain this new provision.

(Para 3.20.5)

The Committee recommends that if this provision has to be retained, the Government should limit the application of clause 104 (2) to motor vehicle accidents only. In addition to that, the expression 'or fails' should be replaced with 'and fails' to provide for easier prosecution and less harsh punishment to

a perpetrator who fulfils either of the duties mentioned in clause 104 (2); and the time period within which the perpetrator has to report the incident should be defined. In view of the above, the Committee recommends re-drafting this clause in consultation with the Ministry of Law & Justice.

(Para 3.20.6)

The Committee observes that the existing laws were inadequate to tackle the menace of many serious offences like organised kidnapping, land grabbing, contract killing, extortion as also many major financial scams and large bank frauds. This will be a very effective addition in the substantive law. In this regard, the Committee recommends that the terms used like, gang, mafia, crime ring, gang criminality, racketeering, and serious offence may be defined; the term ‘criminal organization’ may also be defined clearly as it lacks a distinct definition, leaving uncertainty about the criteria for categorizing an organization as ‘criminal’ and any associated procedures for such classification.

(Para 3.21.4)

As regards sub-clause (2), the Committee opines that there is no differentiation between the actual commission of an offence and an attempt to commit it. For purpose of introducing clarity, the Committee recommends that the penal provision for attempt and the commission of offence may be kept in separate clauses; as regards sub-clause (3), the element of *mens rea* should be introduced; the expression ‘group of three or more persons’ in Explanation (ii) of clause 109 (1) may be changed to ‘group of two or more persons’ to widen the scope of this law; and special procedural provisions in respect of this offence should be provided in BNSS for effective application of this clause. In view of the above, the Committee recommends re-drafting this clause in consultation with the Ministry of Law & Justice.

(Para 3.21.5)

In view of the above deliberation, the Committee recommends that the expression ‘knowingly that the said property is’ should be incorporated after the words ‘Whoever, holds any property’ in the sub-clause 6 of this clause in

consultation with the Legislative Department to provide protection to the third person who may come to acquire the property from a person who knowingly held the property derived, or obtained from the commission of an organised crime.

(Para 3.21.7)

The Committee takes note of all the concerns raised and recommends that the Government should redraft this clause in consultation with the Legislative Department to address the issues.

(Para 3.22.3)

The Committee is of the view that – (i) The term ‘intimidation’ should be explained to settle the ambiguity in categorizing an act as a ‘terrorist act’; (ii) The element of *mens rea* should be introduced in clause 111(6); (iii) The expression ‘foreign country’ should be replaced with ‘anywhere outside India’ to widen the scope of clause to cover all offenders located outside India; and (iv) The word ‘sovereignty’ should be added before the word ‘unity’ under clause 111(1).

(Para 3.23.2)

The Committee also recommends that a provision should also be made in the Bharatiya Nagarik Suraksha Sanhita, 2023 to the effect that before registering a criminal case/ FIR under this clause, there has to be an approval by a senior police officer to decide whether the FIR be registered under UAPA or under the BNS.

(Para 3.23.3)

The Committee feels that in order to cover crimes committed on grounds of community, it is essential to explicitly incorporate the word ‘community’ in sub-clause 4 of this clause. It also feels that the expression ‘acting in concert’ should also be included in the said sub-clause (4).

(Para 3.24.2)

After considering the concerns of the healthcare personnel, the Committee opines that the Government may consider introducing appropriate legal safeguards for healthcare workers.

(Para 3.24.5)

The Committee agrees with the submission made before it and recommends that the punishment provided under clause 130 may be reduced from two years to one year.

(Para 3.25.2)

The Committee compliments the Government in deleting the term ‘sedition’ from criminal law by rephrasing it without compromising the security of the state. The Committee finds it as a very progressive development. It is observed that in the Explanation part of clause, due to typological error the sentence remains incomplete. The words ‘*do not constitute offence under this section*’ may be added at the end.

(Para 3.26.3)

The Committee recommends the rearrangement of clause by replacing the words ‘*Air Force subject to the Acts referred to in section 165 of the Government of India*’ with ‘*Air Force of the Government of India subject to the Acts referred to in section 165*’.

(Para 3.27.1)

In view of the above submission, the Committee agrees with the views of the Ministry and opines that the Chapter IX may continue to be a part of Bharatiya Nyaya Sanhita.

(Para 3.28.3)

The Committee notes a minor correction in this clause and recommends that the words ‘*section 449 of the Bharatiya Nagarik Suraksha Sanhita, 2023*’ may be replaced with the words ‘*section 397 of the Bharatiya Nagarik Suraksha Sanhita, 2023*’.

(Para 3.29.1)

In view of the serious health issues that can result from the consumption of adulterated food, the Committee observes that the offence of food adulteration affects the public at large and that the punishment provided for the offenders under this clause is inadequate. The Committee recommends that a minimum punishment of six months be provided for the offence under this clause along with a minimum fine of ₹25,000.

(Para 3.30.2)

In view of the serious health issues that can result from the sale of noxious food, the Committee observes that the offence has the potential to affect the public at large and that the punishment provided for the offenders under this clause is inadequate. The Committee recommends that a minimum punishment of six months be provided for the offence under this clause along with a minimum fine of ₹10,000.

(Para 3.31.2)

The Committee also undertook a detailed examination of the text of each clause and noted that the Bharatiya Nyaya Sanhita contains some typographical and grammatical errors. The Committee is of the view that even a single typographical or grammatical error in the Sanhita has the potential to be misinterpreted and diluting the intent of the provision. The Committee, therefore, recommends the Ministry to rectify such typographical and grammatical errors.

(Para 3.31.3)

The Committee agrees with the remaining clauses of the Sanhita without any changes. The Committee strongly believes that the newly introduced Bharatiya Nyaya Sanhita would strengthen law and order and also focus on simplifying legal procedure so that ease of living is ensured to the common man. It shall also make the proposed law relevant to the contemporary situation and provide speedy justice to common man.

(Para 3.31.4)

NOTES OF DISSENT

अधीर रंजन चौधरी

संसद सदस्य

नेता, लोक सभा (कांग्रेस संसदीय दल)

ADHIR RANJAN CHOWDHURY

MEMBER OF PARLIAMENT
LEADER OF CONGRESS PARTY
IN THE LOK SABHA



सत्यमेव जयते

अध्यक्ष

लोक लेखा समिति
भारतीय संसद, नई दिल्ली

CHAIRPERSON

PUBLIC ACCOUNTS COMMITTEE
PARLIAMENT HOUSE
NEW DELHI

To

The Chairperson
Standing Committee on Home Affairs
Rajya Sabha
Parliament House
New Delhi

DISSENT NOTE ON THE PROPOSED (1) BHARATIYA NYAYA SANHITA BILL, 2023 ('BNS'), (2) BHARATIYA NAGARIK SURAKSHA SANHITA BILL, 2023 ('BNSS') AND (3) THE BHARATIYA SAKSHYA BILL, 2023 ('BSB').

Without any prior intimation and consultation, the Modi Government introduced three new Bills on August 11th, 2023 in the Lok Sabha, namely;

S. NO	EXISTING ACT	PROPOSED ACT TO REPLACE THE EXISTING ACT
1.	Indian Penal Code, 1860 – 511 Sections (Including Amendments and Additions)	Bharatiya Nyaya Sanhita(BNS) –356 total Sections, 174 Sections changed, 8 new Sections added and 22 Sections repealed
2.	Code of Criminal Procedure, 1973 – 528 Sections (Including Amendments and Additions)	Bharatiya Nagarik Suraksha Sanhita (BNSS) – 533 total Sections, 160 Sections changed, 9 New Sections and 9 Sections repealed
3.	Indian Evidence Act, 1872–185 Sections (Including Amendments and Additions)	Bharatiya Sakshya (BSB) – 170 total Sections. 23 Sections changed, 1 new Section added, and 5 Sections repealed.

The three captioned criminal law Bills cannot be supported in good conscience.

* * *

I. The following key issues arise from a reading of the Draft Bills;

1. **The Law is vastly the same. Only renumbered and re-arranged;** –Far from being novel, or an intuitive re-evaluation of legal provisions, practices and offences, the bills are significantly identical in both language and content to the Acts that they seek to replace. The proposed bills have largely reproduced the laws as they exist presently. Arguably, the biggest "change" has been here numbering of Sections. This exercise, experts opine, would be responsible for large scale confusion resulting in unnecessary delay in the functioning of courts and the policing agencies.

Furthermore, changing the positioning of the provisions within the statutes does not make a law more effective or better in any way.

* * *

Office: Room No. 51, Parliament House, New Delhi-110 001
Phone: 011-23034605, 011-24602709 Telefax: 011-23017888
Email: adhir@sansad.nic.in & bengalpcc@gmail.com

Chairman
Standing Committee on Home Affairs
Dy. Secy 203
Date 27/10/2023
Rajya Sabha, Parliament of India

2. **HM's Speech in the Parliament dated 11.08.2023** – The Hon'ble HM himself highlighted the substantive changes in his speech on the floor of Parliament (dated 2023).

The sum total of these changes which the HM himself has chosen to highlight is 25. Even by the most verbose of standards, these could have been introduced to the existing law through a simple five page amendment bill. There was thus no need to carry out such a comprehensive and unnecessary reform for merely 12 substantive amendments (by the HM's own examples). In fact, even in the statements put out by the Government, it is these examples that are being reiterated.

Even the statement of objects and reasons appended to the Bills fails to provide a satisfactory justification.

3. **Imposition of Hindi** – Parliament represents all of us. Not just the Hindi Speakers. Using language which is deliberately exclusionary for the title cannot be justified especially when a Hindi version of the Bill is always published officially and simultaneously. The usage of sanskritised Hindi in these bills goes against the spirit of Article 348 of the Indian Constitution which states that the text of all Bills introduced in Parliament must be in English, a necessary requirement for a country as diverse as India.
4. **Essentially Colonial** – While the Government has hailed the Bills as a move towards shedding the colonial nature of criminal laws, the Bills still retain the colonial spirit of the current laws. For example, most punishments for offences under the IPC have been retained. Further, punishments for some offences have been made harsher and the death penalty has been added for at least four new crimes such as mob lynching, organised crime, terrorism and rape of a minor. The removal of law on sedition was a mere symbolic gesture as it is replaced by a Clause 150 BNS which is much more tyrannical and colonial in its essence. Ultimately, there has been no shift towards a rehabilitative approach to criminal laws. The proposed law retains the retributive nature of the colonial laws. In other words, aside from empty rhetoric about shedding the colonial spirit there is no clear illustration of how the Bills seek to actually do so.
5. **Poorly Drafted Laws** – The version of the Bills that have been released to the public is rife with substantive errors that alter the very meaning of the law to the extent of rendering the law absurd and otiose. For example, Clause 23 of 'The Bharatiya Nyaya Sanhita Bill' states "**Nothing** is an offence which is done by a person who, at the time of doing it, is, by reason of

intoxication, incapable of knowing the nature of the act, or that he is doing what is either wrong, or contrary to law; unless that the thing which intoxicated him was administered to him without his knowledge or against his will." In other words, the law exempts offences committed by persons who are under a voluntary state of intoxication and at the same time punishes acts that are done in an involuntary state of intoxication. Such serious infirmities is clear evidence of lack of research and a proper consultation process.

6. **Lack of Public Consultation** – The manner, timing and secrecy with which the exercise has been carried out reeks of legislative mala fides. Law making, especially on a subject of such wide-ranging importance, has to be done in the full light of day with the widest possible consultation amongst stakeholders. **The Pre-Legislative Consultation Policy 2014 expressly prescribes a thirty-day consultation period with the public at large before it may be cleared by Cabinet for introduction in Parliament. This consultation, done through a sharing of the draft in the public domain, must be accompanied by (i) justifications for its enactment, (ii) financial implications and (iii) estimation of the laws' impact. Finally, comments received through the consultation must be published on the website of the nodal ministry.** In this case, a committee was constituted, its members and mandate shielded from public scrutiny, and its recommendations not even subject to peer-review, were taken as gospel. No justification is given for why such a large-scale reform was effected to make changes to a handful of sections, by the Home Ministers own statement in Parliament.

7. **Enhances the Union Government's policing powers without any checks and balances** – The changes that have been made to the existing laws also enhance the coercive powers of State and its instrumentalities which allow for the exercise of its powers at a hitherto unknown scale at which these powers can be exercised by the State. *For example, the laws in general have expanded the scope of police's power without introducing measures to keep its activities in check. From the data of the Government, provided as a response to Unstarred Question No. 1459 for 26.07.2022 raised in parliament, one can see that 4484 persons were victims of Custodial Deaths in India between 2020-2022. While the Bill seeks to enhance the time for which a person can be kept in police custody, there exists no protective measures to provide safety to the accused persons under police custody which is bound to adversely affect the safety of detainees.*

II.

TABLE DETAILING SUBSTANTIVE CHANGES IN THE NEWLY INTRODUCED BILLS ALONG WITH THEIR CORRESPONDING POTENTIAL ISSUES

S. NO	TITLE OF CLAUSE	TEXT OF RELEVANT CLAUSE	POTENTIAL ISSUES
1.	Proviso of Clause 18 of BNSS on ' Public Prosecutors '	<i>Provided that for National Capital Territory of Delhi, the Central Government shall, after consultation with the High Court of Delhi, appoint the Public Prosecutor or Additional Public Prosecutors for the purposes of this sub-section.</i>	This provision dilutes the powers of administration of the elected government in Delhi by allowing for centralisation of power and violating the federal structure that the Constitution provides for.
2.	Exception 2 to Clause 63 of BNS on ' Rape '	<i>Exception 2 – Sexual intercourse or sexual acts by a man with his own wife, the wife not being under eighteen years of age, is not rape.</i>	Despite claiming that the New Bills were drafted keeping in mind the issue of women's safety, the Government continues to exempt acts of Marital Rape from the ambit of rape laws. The recognition of Marital Rape as an offence has been a long-standing demand from Indian women across the board.
3.	Clause 69 of the BNS on ' Sexual intercourse by employing	<i>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</i>	The criterion of "deceitful means" proposed under the new Bill is too broad and provides ample scope for misuse. "Suppression of

	deceitful means, etc.'	<p><i>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.</i></p> <p><i>Explanation – “deceitful means” shall include the false promise of employment or promotion, inducement or marrying after suppressing identity.</i></p>	Identity” can be misused by ill-interested parties to harass inter-faith and inter-caste couples.
4.	Clause 43 (3) of the BNSS on ‘Arrest how made’	<p><i>(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 organised 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.</i></p>	<p>The Supreme Court, in Prem Shanker Shukla v. Delhi Administration (1980) 3 SCC 526 has categorically held that the use of handcuffs is an anathema on human dignity and a violation of Article 21 of the Indian Constitution.</p> <p>This section is more in line with the colonial mindset of punitive control of the state as opposed to the citizen first, justice centric approach the Government claims these laws were envisioned to champion. Therefore, the purported colonial mindset that the laws intended to do away with fails and the Bills continue to</p>

			retain the colonial character of the current laws
5.	Clause 187 (2) and 187 (3) of the BNSS on 'Procedure when investigation cannot be completed in twenty-four hours'	<p>(3) <i>The Magistrate may authorise the detention of the accused person, beyond the period of fifteen days, if he is satisfied that adequate grounds exist for doing so, but no Magistrate shall authorise the detention of the accused person in custody under this sub-section for a total period exceeding –</i></p> <p>(i) <i>ninety days, where the investigation relates to an offence punishable with death, imprisonment for life or imprisonment for a term of not less than ten years;</i></p> <p>(ii) <i>sixty days, where the investigation relates to any other offence, and, on the expiry of the said period of ninety days, or sixty days, as the case may be, the accused person shall be released on bail if he is prepared to and does furnish bail, and every person released on bail under this sub-section shall be deemed to be so released under the provisions of Chapter XXXIV for the purposes of that Chapter.</i></p>	<p>The enhancement of the period for which a detenu can be kept in police custody from 15 days contrasts with the decision of the Hon'ble Supreme Court in <i>CBI v. Anupam J. Kulkarni, (1992) 3 SCC 141</i> where it was held that police custody after a period of 15 days would be impermissible. By increasing the period of detention under police custody, the new laws have left detenues exposed to probability of threat, torture or inducement by the police. The safeguard of judicial custody i.e where the police have to take the Magistrate's permission to interrogate an accused has been completely ignored and undone by the new laws.</p>
6.	Clause 262 of the BNSS on 'When accused shall be discharged'	262 (1) <i>The accused may prefer an application for discharge within a period of sixty days from the date of framing of charges.</i>	As per sub-section 1 of Clause 262, an application for discharge can be moved within 60 days of 'framing of charges'. A discharge application

		<p><i>(2) If, upon considering the police report and the documents sent with it under section 293 and making such examination, if any, of the accused as the Magistrate thinks necessary and after giving the prosecution and the accused an opportunity of being heard, the Magistrate considers the charge against the accused to be groundless, he shall discharge the accused, and record his reasons for so doing.</i></p>	<p>is filed under Section 227 or Section 239 and the same is granted if it is evident that there is no basis on which a trial against the accused can be proceeded with.</p> <p>The proposed law is flawed and renders the purpose of a discharge application otiose since a discharge is the right of an accused to avoid frivolous litigation against him if the offence is not even prima facie made out.</p>
7.	<p>Clause 63 of the BSB on 'Admissibility of electronic records'</p>	<p><i>63. (1) Notwithstanding anything contained in this Adhiniyam, any information contained in an electronic record which is printed on paper, stored, recorded or copied in optical or magnetic media or semiconductor memory which is produced by a computer or any communication device or otherwise stored, recorded or copied in any electronic form (hereinafter referred to as the computer output) shall be deemed to be also a document, if the conditions mentioned in this section are satisfied in relation to the information and computer in question and shall be admissible in any proceedings, without further proof or production of the original, as evidence or</i></p>	<p>Clause 63 of the BSB conflicts with Clause 61 and 62 of the BSB. As per Clause 61, all electronic records are to be treated at par with paper records with respect to their admissibility before courts when proved in accordance to Clause 59 of the BSB (as per Clause 62). However, Clause 63 of the BSB lists the conditions that must be satisfied for electronic evidence to be admissible under the act. Clause 63 is largely an exact reproduction of Section 65B of the Indian Evidence Act.</p>

		<i>any contents of the original or of any fact stated therein of which direct evidence would be admissible....</i>	Clause 61 is a new provision introduced by the BSB. However, given that Clause 63 has a non-obstante clause, it overrides Clause 61, thus making it redundant.
--	--	--	---

III.

POINT BY POINT REBUTTAL TO HM'S SPEECH DATED 11.08.2023 IN PARLIAMENT, ON THE CRIMINAL LAW REFORMS ACTS

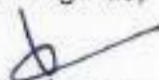
S NO.	CLAIMS	RESPONSE
1.	HM claims that Zero FIR being introduced for the first time.	The Ministry of Home Affairs during the UPA Government, vide Orders dated 10.05.2013 had made it mandatory for all Police Stations to register 'zero FIRs' irrespective of their territorial jurisdiction.
2.	HM claims that concept of E-FIR introduced for the first time	In a Nationwide DGP Conference, Shri Sushil Kumar Shinde inaugurated the CCTNS (Crime & Criminals Tracking Network and Systems) system at Vigyan Bhawan, New Delhi on 04.01.2013 The same CCTNS system (Digital Police Portal) was also relaunched by Shri Amit Shah's Senior Colleague – Shri Rajnath Singh on 21.08.2017.
3.	Lauding the new Bill, HM asserted that 'Compulsory Information' about Arrest to Family Members, being introduced for the first time. Refer to Section 36 of the Draft Bharatiya Nagarik Suraksha Sanhita, 2023	Landmark Constitution Bench Judgement in D.K. Basu Vs. State of West Bengal {1997 (1) SCC 416} dated 18.12.1996. Para 35 - "(2) That the police officer carrying out the arrest of the arrestee shall prepare a memo of arrest at the time of arrest a such memo shall be attested by atleast one witness who may be either a member of the family of the arrestee or a respectable person of the locality from where the arrest is made. It shall also be counter signed by the arrestee and shall contain the time and date of arrest."

4.	Compulsory video recording of statement of rape victims Section 176 of the Draft Bharatiya Nagarik Suraksha Sanhita, 2023 provides that the statement of a victim of sexual assault "may" also be videographer.	Proviso to Section 164 of the CrPC, 1973: "Provided further that if the person making the statement is temporarily or permanently mentally or physically disabled, the statement made by the person, with the assistance of an interpreter or a special educator, shall be video graphed."
5.	The HM claimed that the new Bill makes it mandatory for a Court to pronounce Judgement within 30 days. Section 258 of the Bharatiya Nagarik Suraksha Sanhita, 2023: 258. (1) After hearing arguments and points of law (if any), the Judge shall give a judgment in the case, as soon as possible, within a period of thirty days from the date of completion of arguments, which may for specific reasons extend to a period of sixty days	Order XX Rule 1(1) of the CPC: "Provided that where the judgment is not pronounced at once, every endeavour shall be made by the Court to pronounce the judgment within thirty days from the date on which the hearing of the case was concluded but, where it is not practicable so to do on the ground of the exceptional and extraordinary circumstances of the case, the Court shall fix a future day for the pronouncement of the judgment, and such day shall not ordinarily be a day beyond sixty days from the date on which the hearing of the case as concluded"
6.	SANCTION OF PUBLIC SERVANTS HM asserted that through the present Bills, the Government is making it mandatory to sanction/deny prosecution of Public Servants within 120 days of application or the same would amount to deemed approval.	Vineet Narain Vs. UOI {1998 (1) SCC 226} SCC; Para 15 - "Time limit of three months for grant of sanction for prosecution must be strictly adhered to. However, additional time of one month may be allowed where consultation is required with the Attorney General (AG) or any other law officer in the AG's office." Proviso to Section 19 of the Prevention of Corruption Act, 1988- "Provided also that the

		appropriate Government or any competent authority shall, after the receipt of the proposal requiring sanction for prosecution of a public servant under this sub-section endeavour to convey the decision on such proposal within a period of three months from the date of its receipt”
7.	The HM claimed that now onwards the Criminal Law Reforms enable the authorities to Auction the Assets of Proclaimed Offender.	Section 83 of the CrPC, 1973 “83. Attachment of property of person absconding.— (1) The Court issuing a proclamation under section 82 may, for reasons to be recorded in writing, at any time after the issue of the proclamation, order the attachment of any property, movable or immovable, or both, belonging to the proclaimed person.”
8.	Gang rape 20 years or life imprisonment	Section 376D, IPC 1860: 376D. 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:
9.	HM also said that the 2023 Criminal Law Amendments also criminalizes ‘Sexual Intercourse with Women under False Identity’	Section 376 of the IPC 1860 “Fourthly. —With her consent, when the man knows that he is not her husband and that her consent is

		given because she believes that he is another man to whom she is or believes herself to be lawfully married."
10.	HM also argued that Snatching is being made an offence for the first time	Section 378, 379 (theft) of the IPC already covers snatching as an offence.
11.	It was staunchly claimed by the HM that Sedition is being repealed to protect Freedom of Speech.	Section 150 of the draft Bharatiya Nyaya Sanhita, 2023: "150. 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.
12.	The HM claimed that terrorists like Dawood Ibrahim, may be absconding but now Government Is creating provisions to punish them in absentia.	Section 299 of the CrPC, 1973 already provides for trial, evidence etc. in absence of the Accused.

With regards,


(Adhir Ranjan Chowdhury)

RAVNEET SINGH

Member of Parliament (Lok Sabha)

CHAIRPERSON

Committee on Absence of Members from
the Sittings of the House

MEMBER

- Committee on Public Undertakings
- Standing Committee on Home Affairs
- General Purposes Committee
- Consultative Committee, Ministry of
Micro, Small and Medium Enterprises



सत्यमेव जयते

Office : 119, B Block, PHA Extension Bldg.

New Delhi-110 001

Tel. No. : 011-23035698

Telefax : 011-21410261

27th October 2023

Respected Shri Brijlal jee,

Kindly find enclosed my dissent note on the draft reports of the Committee on Home Affairs on the proposed (i) Bharatiya Nyaya Sanhita Bill, 2023 (BNS), (ii) Bharatiya Nagarik Suraksha Sanhita Bill, 2023 (BNSS) and (iii) The Bharatiya Sakshya Bill, 2023 (BSB).

I request your good self to take the above mentioned dissent note from myself into active consideration please.

With warm regards,

Yours sincerely,


(RAVNEET SINGH)

Shri Brijlal,
Hon'ble Chairperson,
Committee on Home Affairs,
Parliament House Annexe Extension Building,
New Delhi.

25th October 2023

DISSENT NOTE ON THE PROPOSED (1) BHARATIYA NYAYA SANHITA BILL, 2023 ('BNS'), (2) BHARATIYA NAGARIK SURAKSHA SANHITA BILL, 2023 ('BNSS') AND (3) THE BHARATIYA SAKSHYA BILL, 2023 ('BSB')

Without any prior intimation and consultation, the Modi Government introduced three new Bills on August 11th, 2023 in the Lok Sabha, namely;

S. NO	EXISTING ACT	PROPOSED ACT TO REPLACE THE EXISTING ACT
1.	Indian Penal Code, 1860 – 511 Sections (Including Amendments and Additions)	Bharatiya Nyaya Sanhita (BNS) – 356 total Sections, 174 Sections changed, 8 new Sections added and 22 Sections repealed
2.	Code of Criminal Procedure, 1973 – 528 Sections (Including Amendments and Additions)	Bharatiya Nagarik Suraksha Sanhita (BNSS) – 533 total Sections, 160 Sections changed, 9 New Sections and 9 Sections repealed
3.	Indian Evidence Act, 1872 – 185 Sections (Including Amendments and Additions)	Bharatiya Sakshya (BSB) – 170 total Sections. 23 Sections changed, 1 new Section added, and 5 Sections repealed.

The three captioned criminal law Bills cannot be supported in good conscience.

* * *

1.

The following key issues arise from a reading of the Draft Bills;

1. **The Law is vastly the same. Only renumbered and re-arranged;** – Far from being novel, or an intuitive re-evaluation of legal provisions, practices and offences, the bills are significantly identical in both language and content to the Acts that they seek to replace. The proposed bills have largely reproduced the laws as they exist presently. Arguably, the biggest “change” has been the renumbering of Sections. This exercise, experts opine, would be responsible for large scale confusion resulting in unnecessary delay in the functioning of courts and the policing agencies.

Furthermore, changing the positioning of the provisions within the statutes does not make a law more effective or better in any way.

* * *



* * *


2. **HM's Speech in the Parliament dated 11.08.2023** – The Hon'ble HM himself highlighted the substantive changes in his speech on the floor of Parliament (dated 2023).

The sum total of these changes which the HM himself has chosen to highlight is 25. Even by the most verbose of standards, these could have been introduced to the existing law through a simple five page amendment bill. There was thus no need to carry out such a comprehensive and unnecessary reform for merely 12 substantive amendments (by the HM's own examples). In fact, even in the statements put out by the Government, it is these examples that are being reiterated.

* * *

Even the statement of objects and reasons appended to the Bills fails to provide a satisfactory justification.

3. **Imposition of Hindi** – Parliament represents all of us. Not just the Hindi Speakers. Using language which is deliberately exclusionary for the title cannot be justified especially when a Hindi version of the Bill is always published officially and simultaneously. The usage of sanskritised Hindi in these bills goes against the spirit of Article 348 of the Indian Constitution which states that the text of all Bills introduced in Parliament must be in English, a necessary requirement for a country as diverse as India.
4. **Essentially Colonial** – While the Government has hailed the Bills as a move towards shedding the colonial nature of criminal laws, the Bills still retain the colonial spirit of the current laws. For example, most punishments for offences under the IPC have been retained. Further, punishments for some offences have been made harsher and the death penalty has been added for at least four new crimes such as mob lynching, organised crime, terrorism and rape of a minor. The removal of law on sedition was a mere symbolic gesture as it is replaced by a Clause 150 BNS which is much more tyrannical and colonial in its essence. Ultimately, there has been no shift towards a rehabilitative approach to criminal laws. The proposed law retains the retributive nature of the colonial laws. In other words, aside from empty rhetoric about shedding the colonial spirit there is no clear illustration of how the Bills seek to actually do so.
5. **Poorly Drafted Laws** – The version of the Bills that have been released to the public is rife with substantive errors that alter the very meaning of the law to the extent of rendering the law absurd and otiose. *For example, Clause 23 of 'The Bharatiya Nyaya Sanhita Bill' states "Nothing is an offence which is done by a person who, at the time of doing it, is, by reason of*

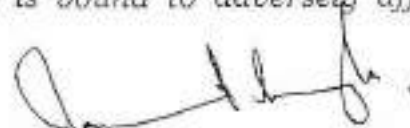


intoxication, incapable of knowing the nature of the act, or that he is doing what is either wrong, or contrary to law; **unless** that the thing which intoxicated him was administered to him without his knowledge or against his will." In other words, the law exempts offences committed by persons who are under a voluntary state of intoxication and at the same time punishes acts that are done in an involuntary state of intoxication. Such serious infirmities is clear evidence of lack of research and a proper consultation process.

6. **Lack of Public Consultation** – The manner, timing and secrecy with which the exercise has been carried out reeks of legislative mala fides. Law making, especially on a subject of such wide-ranging importance, has to be done in the full light of day with the widest possible consultation amongst stakeholders. **The Pre-Legislative Consultation Policy 2014 expressly prescribes a thirty-day consultation period with the public at large before it may be cleared by Cabinet for introduction in Parliament. This consultation, done through a sharing of the draft in the public domain, must be accompanied by (i) justifications for its enactment, (ii) financial implications and (iii) estimation of the laws' impact. Finally, comments received through the consultation must be published on the website of the nodal ministry.** In this case, a committee was constituted, its members and mandate shielded from public scrutiny, and its recommendations not even subject to peer-review, were taken as gospel. No justification is given for why such a large-scale reform was effected to make changes to a handful of sections, by the Home Ministers own statement in Parliament.

* * *

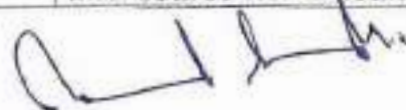
7. **Enhances the Union Government's policing powers without any checks and balances** – The changes that have been made to the existing laws also enhance the coercive powers of State and its instrumentalities which allow for the exercise of its powers at a hitherto unknown scale at which these powers can be exercised by the State. *For example, the laws in general have expanded the scope of police's power without introducing measures to keep its activities in check. From the data of the Government, provided as a response to Unstarred Question No. 1459 for 26.07.2022 raised in parliament, one can see that 4484 persons were victims of Custodial Deaths in India between 2020-2022. While the Bill seeks to enhance the time for which a person can be kept in police custody, there exists no protective measures to provide safety to the accused persons under police custody which is bound to adversely affect the safety of detainees.*



II.

TABLE DETAILING SUBSTANTIVE CHANGES IN THE NEWLY INTRODUCED BILLS ALONG WITH THEIR CORRESPONDING POTENTIAL ISSUES

S. NO	TITLE OF CLAUSE	TEXT OF RELEVANT CLAUSE	POTENTIAL ISSUES
1.	Proviso of Clause 18 of BNSS on ' Public Prosecutors '	<i>Provided that for National Capital Territory of Delhi, the Central Government shall, after consultation with the High Court of Delhi, appoint the Public Prosecutor or Additional Public Prosecutors for the purposes of this sub-section.</i>	This provision dilutes the powers of administration of the elected government in Delhi by allowing for centralisation of power and violating the federal structure that the Constitution provides for.
2.	Exception 2 to Clause 63 of BNS on ' Rape '	<i>Exception 2 – Sexual intercourse or sexual acts by a man with his own wife, the wife not being under eighteen years of age, is not rape.</i>	Despite claiming that the New Bills were drafted keeping in mind the issue of women's safety, the Government continues to exempt acts of Marital Rape from the ambit of rape laws. The recognition of Marital Rape as an offence has been a long-standing demand from Indian women across the board.
3.	Clause 69 of the BNS on ' Sexual intercourse by employing	<i>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</i>	The criterion of "deceitful means" proposed under the new Bill is too broad and provides ample scope for misuse. "Suppression of

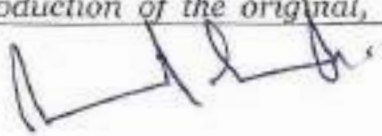


	<i>deceitful means, etc.'</i>	<p><i>rape, shall be punished with imprisonment of either description for a term which may extend to ten years and shall also be liable to fine.</i></p> <p><i>Explanation - "deceitful means" shall include the false promise of employment or promotion, inducement or marrying after suppressing identity.</i></p>	<p>Identity" can be misused by ill-interested parties to harass inter-faith and inter-caste couples.</p>
4-	Clause 43 (3) of the BNSS on 'Arrest how made'	<p><i>(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</i></p> <p><i>escaped from custody, who has committed offence of organised crime, offence of terrorist act, drug related crime, or offence of illegal possession of arms and ammunition, murder,</i></p> <p><i>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.</i></p>	<p>The Supreme Court, in <i>Prem Shanker Shukla v. Delhi Administration (1980) 3 SCC 526</i> has categorically held that the use of handcuffs is an anathema on human dignity and a violation of Article 21 of the Indian Constitution.</p> <p>This section is more in line with the colonial mindset of punitive control of the state as opposed to the citizen first, justice centric approach the Government claims these laws were envisioned to champion. Therefore, the purported colonial mindset that the laws intended to do away with fails and the Bills continue to</p>



			retain the colonial character of the current laws
5.	Clause 187 (2) and 187 (3) of the BNSS on 'Procedure when investigation cannot be completed in twenty-four hours'	<p>(3) The Magistrate may authorise the detention of the accused person, beyond the period of fifteen days, if he is satisfied that adequate grounds exist for doing so, but no Magistrate shall authorise the detention of the accused person in custody under this sub-section for a total period exceeding –</p> <p>(i) ninety days, where the investigation relates to an offence punishable with death, imprisonment for life or imprisonment for a term of not less than ten years;</p> <p>(ii) sixty days, where the investigation relates to any other offence, and, on the expiry of the said period of ninety days, or sixty days, as the case may be, the accused person shall be released on bail if he is prepared to and does furnish bail, and every person released on bail under this sub-section shall be deemed to be so released under the provisions of Chapter XXXIV for the purposes of that Chapter.</p>	<p>The enhancement of the period for which a detenu can be kept in police custody from 15 days contrasts with the decision of the Hon'ble Supreme Court in <i>CBI v. Anupam J. Kulkarni</i>, (1992) 3 SCC 141 where it was held that police custody after a period of 15 days would be impermissible. By increasing the period of detention under police custody, the new laws have left detenues exposed to probability of threat, torture or inducement by the police. The safeguard of judicial custody i.e where the police have to take the Magistrate's permission to interrogate an accused has been completely ignored and undone by the new laws.</p>
6.	Clause 262 of the BNSS on 'When accused shall be discharged'	262 (1) The accused may prefer an application for discharge within a period of sixty days from the date of framing of charges.	As per sub-section 1 of Clause 262, an application for discharge can be moved within 60 days of 'framing of charges'. A discharge application

		<p><i>(2) If, upon considering the police report and the documents sent with it under section 293 and making such examination, if any, of the accused as the Magistrate thinks necessary and after giving the prosecution and the accused an opportunity of being heard, the Magistrate considers the charge against the accused to be groundless, he shall discharge the accused, and record his reasons for so doing.</i></p>	<p>is filed under Section 227 or Section 239 and the same is granted if it is evident that there is no basis on which a trial against the accused can be proceeded with.</p> <p>The proposed law is flawed and renders the purpose of a discharge application otiose since a discharge is the right of an accused to avoid frivolous litigation against him if the offence is not even prima facie made out.</p>
7.	<p>Clause 63 of the BSB on 'Admissibility of electronic records'</p>	<p><i>63. (1) Notwithstanding anything contained in this Adhiniyam, any information contained in an electronic record which is printed on paper, stored, recorded or copied in optical or magnetic media or semiconductor memory which is produced by a computer or any communication device or otherwise stored, recorded or copied in any electronic form (hereinafter referred to as the computer output) shall be deemed to be also a document, if the conditions mentioned in this section are satisfied in relation to the information and computer in question and shall be admissible in any proceedings, without further proof or production of the original, as evidence or</i></p>	<p>Clause 63 of the BSB conflicts with Clause 61 and 62 of the BSB. As per Clause 61, all electronic records are to be treated at par with paper records with respect to their admissibility before courts when proved in accordance to Clause 59 of the BSB (as per Clause 62). However, Clause 63 of the BSB lists the conditions that must be satisfied for electronic evidence to be admissible under the act. Clause 63 is largely an exact reproduction of Section 65B of the Indian Evidence Act.</p>



25th October 2023

		<p><i>any contents of the original or of any fact stated therein of which direct evidence would be admissible....</i></p>	<p>Clause 61 is a new provision introduced by the BSB. However, given that Clause 63 has a non-obstante clause, it overrides Clause 61, thus making it redundant.</p>
--	--	---	--

Handwritten signature

III.

POINT BY POINT REBUTTAL TO HM'S SPEECH DATED 11.08.2023 IN PARLIAMENT, ON THE CRIMINAL LAW REFORMS ACTS

S NO.	CLAIMS	RESPONSE
1.	HM claims that Zero FIR being introduced for the first time.	The Ministry of Home Affairs during the UPA Government, vide Orders dated 10.05.2013 had made it mandatory for all Police Stations to register 'zero FIRs' irrespective of their territorial jurisdiction.
2.	HM claims that concept of E-FIR introduced for the first time	In a Nationwide DGP Conference, Shri Sushil Kumar Shinde inaugurated the CCTNS (Crime & Criminals Tracking Network and Systems) system at Vigyan Bhawan, New Delhi on 04.01.2013 The same CCTNS system (Digital Police Portal) was also relaunched by Shri Amit Shah's Senior Colleague - Shri Rajnath Singh on 21.08.2017.
3.	Lauding the new Bill, HM asserted that 'Compulsory Information' about Arrest to Family Members, being introduced for the first time. Refer to Section 36 of the Draft Bharatiya Nagarik Suraksha Sanhita, 2023	Landmark Constitution Bench Judgement in D.K. Basu Vs. State of West Bengal {1997 (1) SCC 416} dated 18.12.1996. Para 35 - "(2) That the police officer carrying out the arrest of the arrestee shall prepare a memo of arrest at the time of arrest a such memo shall be attested by atleast one witness who may be either a member of the family of the arrestee or a respectable person of the locality from where the arrest is made. It shall also be counter signed by the arrestee and shall contain the time and date of arrest."

4.	Compulsory video recording of statement of rape victims Section 176 of the Draft Bharatiya Nagarik Suraksha Sanhita, 2023 provides that the statement of a victim of sexual assault "may" also be videographer.	Proviso to Section 164 of the CrPC, 1973: "Provided further that if the person making the statement is temporarily or permanently mentally or physically disabled, the statement made by the person, with the assistance of an interpreter or a special educator, shall be video graphed."
5.	The HM claimed that the new Bill makes it mandatory for a Court to pronounce Judgement within 30 days. Section 258 of the Bharatiya Nagarik Suraksha Sanhita, 2023: 258. (1) After hearing arguments and points of law (if any), the Judge shall give a judgment in the case, as soon as possible, within a period of thirty days from the date of completion of arguments, which may for specific reasons extend to a period of sixty days	Order XX Rule 1(1) of the CPC: "Provided that where the judgment is not pronounced at once, every endeavour shall be made by the Court to pronounce the judgment within thirty days from the date on which the hearing of the case was concluded but, where it is not practicable so to do on the ground of the exceptional and extraordinary circumstances of the case, the Court shall fix a future day for the pronouncement of the judgment, and such day shall not ordinarily be a day beyond sixty days from the date on which the hearing of the case as concluded"
6.	SANCTION OF PUBLIC SERVANTS HM asserted that through the present Bills, the Government is making it mandatory to sanction/deny prosecution of Public Servants within 120 days of application or the same would amount to deemed approval.	Vineet Narain Vs. UOI {1998 (1) SCC 226} SCC; Para 15 - "Time limit of three months for grant of sanction for prosecution must be strictly adhered to. However, additional time of one month may be allowed where consultation is required with the Attorney General (AG) or any other law officer in the AG's office." Proviso to Section 19 of the Prevention of Corruption Act, 1988- "Provided also that the

		appropriate Government or any competent authority shall, after the receipt of the proposal requiring sanction for prosecution of a public servant under this sub-section endeavour to convey the decision on such proposal within a period of three months from the date of its receipt"
7.	The HM claimed that now onwards the Criminal Law Reforms enable the authorities to Auction the Assets of Proclaimed Offender.	Section 83 of the CrPC, 1973 "83. Attachment of property of person absconding.— (1) The Court issuing a proclamation under section 82 may, for reasons to be recorded in writing, at any time after the issue of the proclamation, order the attachment of any property, movable or immovable, or both, belonging to the proclaimed person."
8.	Gang rape 20 years or life imprisonment	Section 376D, IPC 1860: 376D. 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:
9.	HM also said that the 2023 Criminal Law Amendments also criminalizes 'Sexual Intercourse with Women under False Identity'	Section 376 of the IPC 1860 "Fourthly. —With her consent, when the man knows that he is not her husband and that her consent is

Handwritten signature

		given because she believes that he is another man to whom she is or believes herself to be lawfully married."
10.	HM also argued that Snatching is being made an offence for the first time	Section 378, 379 (theft) of the IPC already covers snatching as an offence.
11.	It was staunchly claimed by the HM that Sedition is being repealed to protect Freedom of Speech.	Section 150 of the draft Bharatiya Nyaya Sanhita, 2023: "150. 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.
12.	The HM claimed that terrorists like Dawood Ibrahim, may be absconding but now Government is creating provisions to punish them in absentia.	Section 299 of the CrPC, 1973 already provides for trial, evidence etc. in absence of the Accused.

At Sub.

Digvijaya Singh
Member of Parliament
(Rajya Sabha)



B-1, Shyamla Hills, Bhopal (MP)
Tel.: 0755-2441788, 2441790

64, Lodhi Estate, New Delhi
Tel.: 011-24628655

E-mail : digvijaya.singh@sansad.nic.in
dvs01fcbhopal@gmail.com

No. 1820/2023
Date 25/10/2023

Dear, Shri Brijlal Ji,

I am enclosing a detailed Dissenting note on the proposed:

1. BHARATIYA NYAYA SANHITA BILL, 2023 ('BNS')
2. BHARATIYA NAGARIK SURAKSHA SANHITA BILL, 2023 ('BNSS')
3. THE BHARATIYA SAKSHYA BILL, 2023 ('BSB').

There was an urgent need to call Eminent Lawyers and Judges to depose before the Committee. But it appeared that Hon. Chairman was in a tearing hurry to submit the report.

Kindly include my Dissenting Note in the Report to be submitted to the Parliament.

With regards,

Yours Sincerely,


(Digvijaya Singh)

Shri Brijlal Ji
Hon'ble Chairman,
Parliamentary Standing Committee,
Home Ministry, New Delhi

DISSENT NOTE ON THE PROPOSED (1) BHARATIYA NYAYA SANHITA BILL, 2023 ('BN'), (2) BHARATIYA NAGARIKSURAKSHA SANHITA BILL, 2023 ('BNSS') AND (3) THE BHARATIYA SAKSHYA BILL, 2023 ('BS')

Without any prior intimation and consultation, the Modi Government introduced three news Bills on August 11th, 2023 in the Lok Sabha, namely;

s. No	EXISTING ACT	PROPOSED ACT TO REPLACE THE EXISTING ACT
1.	Indian Penal Code, 1860 - 511 Sections (Including Amendments and Additions)	Bharatiya Nyaya Sanhita (BNS) - 356 total Sections, 174 Sections changed, 8 new Sections added and 22 Sections repealed
2.	Code of Criminal Procedure, 1973 - 528 Sections (Including Amendments and Additions)	Bharatiya Nagarik Suraksha Sanhita (BNSS) - 533 total Sections, 160 Sections changed, 9 New Sections and 9 Sections repealed
3.	Indian Evidence Act, 1872 - 185 Sections (Including Amendments and Additions)	Bharatiya Sakshya (BSB) - 170 total Sections. 23 Sections changed, 1 new Section added, and 5 Sections repealed.

The three captioned criminal law Bills cannot be supported in good conscience.

*** .

I. The following key issues arise from a reading of the Draft Bills;

- 1. The Law is vastly the same. Only renumbered and re-arranged;** - Far from being novel, or an intuitive re-evaluation of legal provisions, practices and offences, the bills are significantly identical in both language and content to the Acts that they seek to replace. The proposed bills have largely reproduced the laws as they exist presently. Arguably, the biggest "change" has been the renumbering of Sections. This exercise, experts opine, would be responsible for large scale confusion resulting in unnecessary delay in the functioning of courts and the policing agencies.

*** Expunged as per Rule 90(7)(i) of Rules of Procedure and Conduct of Business in Rajya Sabha

Furthermore, changing the positioning of the provisions within the statutes does not make a law more effective or better in any way. ***.

2. **HM's Speech in the Parliament dated 11.08.2023** - The Hon'ble HM himself highlighted the substantive changes in his speech on the floor of Parliament (dated 2023).

The sum total of these changes which the HM himself has chosen to highlight is 25. Even by the most verbose of standards, these could have been introduced to the existing law through a simple five page amendment bill. There was thus no need to carry out such a comprehensive and unnecessary reform for merely 12 substantive amendments (by the HM's own examples). In fact, even in the statements put out by the Government, it is these examples that are being reiterated. *** . Even the statement of objects and reasons appended to the Bills fails to provide a satisfactory justification.

3. **Imposition of Hindi** - Parliament represents all of us. Not just the Hindi Speakers. Using language which is deliberately exclusionary for the title cannot be justified especially when a Hindi version of the Bill is always published officially and simultaneously. The usage of sanskritised Hindi in these bills goes against the spirit of Article 348 of the Indian Constitution which states that the text of all Bills introduced in Parliament must be in English, a necessary requirement for a country as diverse as India.
4. **Essentially Colonial** - While the Government has hailed the Bills as a move towards shedding the colonial nature of criminal laws, the Bills still retain the colonial spirit of the current laws. For example, most punishments for offences under the IPC have been retained. Further, punishments for some offences have been made harsher and the death penalty has been added for at least four new crimes such as mob lynching, organised crime, terrorism and rape of a minor. The removal of law on sedition was a mere symbolic gesture as it is replaced by a Clause 150 BNS which is much more tyrannical and colonial in its essence. Ultimately, there has been no shift towards a rehabilitative approach to criminal laws. The proposed law retains the retributive nature of the colonial laws. In other words, aside from empty rhetoric about shedding the colonial spirit there is no clear illustration of how

*** Expunged as per Rule 90(7)(i) of Rules of Procedure and Conduct of Business in Rajya Sabha

the Bills seek to actually do so.

5. **Poorly Drafted Laws** - The version of the Bills that have been released to the public is rife with substantive errors that alter the very meaning of the law to the extent of rendering the law absurd and otiose. *For example, Clause 23 of 'The Bharatiya Nyaya Sanhita Bill' states "Nothing is an offence which is done by a person who, at the time of doing it, is, by reason of intoxication, incapable of knowing the nature of the act, or that he is doing what is either wrong, or contrary to law; unless that the thing which intoxicated him was administered to him without his knowledge or against his will."* In other words, the law exempts offences committed by persons who are under a voluntary state of intoxication and at the same time punishes acts that are done in an involuntary state of intoxication. Such serious infirmities is clear evidence of lack of research and a proper consultation process.

6. **Lack of Public Consultation** - The manner, timing and secrecy v.rith which the exercise has been carried out reeks of legislative mala fides. Law making, especially on a subject of such wide-ranging importance, has to be on done in the full light of day with the widest possible consultation amongst stakeholders. **The Pre-Legislative Consultation Policy 2014 expressly prescribes a thirty-day consultation period with the public at large before it may be cleared by Cabinet for introduction in Parliament. This consultation, done through a sharing of the draft in the public domain, must be accompanied by (i) justifications for its enactment, (ii) financial implications and (iii) estimation of the laws' impact. Finally, comments received through the consultation must be published on the website of the nodal ministry.** In this case, a committee was constituted, its members and mandate shielded from public scrutiny, and its recommendations not even subject to peer-review, were taken as gospel. No justification is given for why such a large-scale reform was effected to make changes to a handful of sections, by the Home Ministers own statement in Parliament.
*** .

7. **Enhances the Union Government's policing powers without any checks and balances** - The changes that have been made to the existing laws also enhance the coercive powers of State and its instrumentalities which allow for the exercise of its powers at a hitherto unknown scale at which these powers can be exercised by the State. *For example, the laws in general have*

*** Expunged as per Rule 90(7)(i) of Rules of Procedure and Conduct of Business in Rajya Sabha

expanded the scope of police's power without introducing measures to keep its activities in check. From the data of the Government, provided as a response to Unstarred Question No. 1459 for 26.07.2022 raised in parliament, one can see that 4484 persons were victims of Custodial Deaths in India between 20 2 0 -20 2 2 . While the Bill seeks to enhance the time for which a person can be kept in police custody, there exists no protective measures to provide safety to the accused persons under police custody which is bound to adversely affect the safety of detainees.

II.

TABLE DETAILING SUBSTANTIVE CHANGES IN THE NEWLY INTRODUCED BILLS ALONG WITH THEIR CORRESPONDING POTENTIAL ISSUES

S. NO	TITLE OF CLAUSE	TEXT OF RELEVANT CLAUSE	POTENTIAL ISSUES
1.	Proviso of Clause 18 of BNSS on ' Public Prosecutors '	<i>Provided that for National Capital Territory of Delhi, the Central Government shall, after consultation with the High Court of Delhi, appoint the Public Prosecutor or Additional Public Prosecutors for, the purposes of this sub-section.</i>	This provision dilutes the powers of administration of the elected government in Delhi by allowing for centralisation of power and violating the federal structure that the Constitution provides for.
2.	Exception 2 to Clause 63 of BNS on ' Rape '	<i>Exception 2 – Sexual intercourse or sexual acts by a man with his own wife, the wife not being under eighteen years of age, is not rape.</i>	Despite claiming that the New Bills were drafted keeping in mind the issue of women's safety, the Government continues to exempt acts of Marital Rape from the ambit of rape laws. The recognition of Marital Rape as an offence has been a long-standing demand from Indian women across the board.
3.	Clause 69 of the BNS on ' Sexual intercourse by employing	<i>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</i>	The criterion of "deceitful means" proposed under the new Bill is too broad and provides ample scope for misuse. "Suppression of

	deceitful means, etc.'	<p><i>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.</i></p> <p><i>Explanation - "deceitful means" shall include the false promise of employment or promotion, inducement or marrying after suppressing identity.</i></p>	Identity" can be misused by ill-interested parties to harass inter-faith and inter-caste couples.
4.	Clause 43 (3) of the BNSS on 'Arrest how made'	<p><i>(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 organised 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.</i></p>	<p>The Supreme Court, in <i>Prem Shanker Shukla v. Delhi Administration (1980) 3 SCC 526</i> has categorically held that the use of handcuffs is an anathema on human dignity and a violation of Article 21 of the Indian Constitution.</p> <p>This section is more in line with the colonial mindset of punitive control of the state as opposed to the citizen first, justice centric approach the Government claims these laws were envisioned to champion. Therefore, the purported colonial mindset that the laws intended to do away with fails and the Bills continue to</p>

			retain the colonial character of the current laws
5.	Clause 187 (2) and 187 (3) of the BNSS on 'Procedure when investigation cannot be completed in twenty-four hours'	<p>(3) The Magistrate may authorise the detention of the accused person, beyond the period of fifteen days, if he is satisfied that adequate grounds exist for doing so, but no Magistrate shall authorise the detention of the accused person in custody under this sub-section for a total period exceeding –</p> <p>(i) ninety days, where the investigation relates to an offence punishable with death, imprisonment for life or imprisonment for a term of not less than ten years;</p> <p>(ii) sixty days, where the investigation relates to any other offence, and, on the expiry of the said period of ninety days, or sixty days, as the case may be, the accused person shall be released on bail if he is prepared to and does furnish bail, and every person released on bail under this sub-section shall be deemed to be so released under the provisions of Chapter XXXIV for the purposes of that Chapter.</p>	<p>The enhancement of the period for which a detenu can be kept in police custody from 15 days contrasts with the decision of the Hon'ble Supreme Court in CBI v. Anupam J. Kulkarni, (1992) 3 SCC 141 where it was held that police custody after a period of 15 days would be impermissible. By increasing the period of detention under police custody, the new laws have left detenues exposed to probability of threat, torture or inducement by the police. The safeguard of judicial custody i.e where the police have to take the Magistrate's permission to interrogate an accused has been completely ignored and undone by the new laws.</p>
6.	Clause 262 of the BNSS on 'When accused shall be discharged'	262 (1) <i>The accused may prefer an application for discharge within a period of sixty days from the date of framing of charges.</i>	As per sub-section 1 of Clause 262, an application for discharge can be moved within 60 days of 'framing of charges'. A discharge application

		<p><i>(2) If, upon considering the police report and the documents sent with it under section 293 and making such examination, if any, of the accused as the Magistrate thinks necessary and after giving the prosecution and the accused an opportunity of being heard, the Magistrate considers the charge against the accused to be groundless, he shall discharge the accused, and record his reasons for so doing.</i></p>	<p>is filed under Section 227 or Section 239 and the same is granted if it is evident that there is no basis on which a trial against the accused can be proceeded with.</p> <p>The proposed law is flawed and renders the purpose of a discharge application otiose since a discharge is the right of an accused to avoid frivolous litigation against him if the offence is not even prima facie made out.</p>
7.	<p>Clause 63 of the BSB on 'Admissibility of electronic records'</p>	<p><i>63. (1) Notwithstanding anything contained in this Adhiniyam, any information contained in an electronic record which is printed on paper, stored, recorded or copied in optical or magnetic media or semiconductor memory which is produced by a computer or any communication device or otherwise stored, recorded or copied in any electronic form (hereinafter referred to as the computer output) shall be deemed to be also a document, if the conditions mentioned in this section are satisfied in relation to the information and computer in question and shall be admissible in any proceedings, without further proof or production of the original, as evidence or</i></p>	<p>Clause 63 of the BSB conflicts with Clause 61 and 62 of the BSB. As per Clause 61, all electronic records are to be treated at par with paper records with respect to their admissibility before courts when proved in accordance to Clause 59 of the BSB (as per Clause 62). However, Clause 63 of the BSB lists the conditions that must be satisfied for electronic evidence to be admissible under the act. Clause 63 is largely an exact reproduction of Section 65B of the Indian Evidence Act.</p>

		<i>any contents of the original or of any fact stated therein of which direct evidence would be admissible....</i>	Clause 61 is a new provision introduced by the BSB. However, given that Clause 63 has a non-obstante clause, it overrides Clause 61, thus making it redundant.
--	--	--	---

III.

POINT BY POINT REBUTTAL TO HM'S SPEECH DATED 11.08.2023 IN PARLIAMENT, ON THE CRIMINAL LAW REFORMS ACTS

S NO.	CLAIMS	RESPONSE
1.	HM claims that Zero FIR being introduced for the first time.	The Ministry of Home Affairs during the UPA Government, vide Orders dated 10.05.2013 had made it mandatory for all Police Stations to register 'zero FIRs' irrespective of their territorial jurisdiction.
2.	HM claims that concept of E-FIR introduced for the first time	In a Nationwide DGP Conference, Shri Sushil Kumar Shinde inaugurated the CCTNS (Crime & Criminals Tracking Network and Systems) system at Vigyan Bhawan, New Delhi on 04.01.2013 The same CCTNS system (Digital Police Portal) was also relaunched by Shri Amit Shah's Senior Colleague – Shri Rajnath Singh on 21.08.2017.
3.	Lauding the new Bill, HM asserted that 'Compulsory Information' about Arrest to Family Members, being introduced for the first time. Refer to Section 36 of the Draft Bharatiya Nagarik Suraksha Sanhita, 2023	Landmark Constitution Bench Judgement in D.K. Basu Vs. State of West Bengal {1997 (1) SCC 416} dated 18.12.1996. Para 35 - "(2) That the police officer carrying out the arrest of the arrestee shall prepare a memo of arrest at the time of arrest a such memo shall be attested by atleast one witness who may be either a member of the family of the arrestee or a respectable person of the locality from where the arrest is made. It shall also be counter signed by the arrestee and shall contain the time and date of arrest."

4.	Compulsory video recording of statement of rape victims Section 176 of the Draft Bharatiya Nagarik Suraksha Sanhita, 2023 provides that the statement of a victim of sexual assault "may" also be videographer.	Proviso to Section 164 of the CrPC, 1973: "Provided further that if the person making the statement is temporarily or permanently mentally or physically disabled, the statement made by the person, with the assistance of an interpreter or a special educator, shall be video graphed."
5.	The HM claimed that the new Bill makes it mandatory for a Court to pronounce Judgement within 30 days. Section 258 of the Bharatiya Nagarik Suraksha Sanhita, 2023: 258. (1) After hearing arguments and points of law (if any), the Judge shall give a judgment in the case, as soon as possible, within a period of thirty days from the date of completion of arguments, which may for specific reasons extend to a period of sixty days	Order XX Rule 1(1) of the CPC: "Provided that where the judgment is not pronounced at once, every endeavour shall be made by the Court to pronounce the judgment within thirty days from the date on which the hearing of the case was concluded but, where it is not practicable so to do on the ground of the exceptional and extraordinary circumstances of the case, the Court shall fix a future day for the pronouncement of the judgment, and such day shall not ordinarily be a day beyond sixty days from the date on which the hearing of the case as concluded"
6.	SANCTION OF PUBLIC SERVANTS HM asserted that through the present Bills, the Government is making it mandatory to sanction/ deny prosecution of Public Servants within 120 days of application or the same would amount to deemed approval.	Vineet Narain Vs. UOI {1998 (1) SCC 226} SCC; Para 15 - "Time limit of three months for grant of sanction for prosecution must be strictly adhered to. However, additional time of one month may be allowed where consultation is required with the Attorney General (AG) or any other law officer in the AG's office." Proviso to Section 19 of the Prevention of Corruption Act, 1988- "Provided also that the

		appropriate Government or any competent authority shall, after the receipt of the proposal requiring sanction for prosecution of a public servant under this sub-section endeavour to convey the decision on such proposal within a period of three months from the date of its receipt”
7.	The HM claimed that now onwards the Criminal Law Reforms enable the authorities to Auction the Assets of Proclaimed Offender.	Section 83 of the CrPC, 1973 “83. Attachment of property of person absconding.— (1) The Court issuing a proclamation under section 82 may, for reasons to be recorded in writing, at any time after the issue of the proclamation, order the attachment of any property, movable or immovable, or both, belonging to the proclaimed person.”
8.	Gang rape 20 years or life imprisonment	Section 376D, IPC 1860: 376D. 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:
9.	HM also said that the 2023 Criminal Law Amendments also criminalizes 'Sexual Intercourse with Women under False Identity'	Section 376 of the IPC 1860 “Fourthly. —With her consent, when the man knows that he is not her husband and that her consent is

		given because she believes that he is another man to whom she is or believes herself to be lawfully married.”
10.	HM also argued that Snatching is being made an offence for the first time	Section 378, 379 (theft) of the IPC already covers snatching as an offence.
11.	It was staunchly claimed by the HM that Sedition is being repealed to protect Freedom of Speech.	Section 150 of the draft Bharatiya Nyaya Sanhita, 2023: “150. 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.
12.	The HM claimed that terrorists like Dawood Ibrahim, may be absconding but now Government is creating provisions to punish them in absentia.	Section 299 of the CrPC, 1973 already provides for trial, evidence etc. in absence of the Accused.



सत्यमेव जयते

N.R.ELANGO
MEMBER OF PARLIAMENT
(RAJYA SABHA)
TAMILNADU

TO :

7th November 2023

The Hon'ble Chairman and the Hon'ble Members,
Parliamentary Standing Committee on
Home Affairs.

Sir, Vanakkam,

Subject: The Draft report on Bharatiya Nyaya Sanhita Bill 2023,
The Bharatiya Nagarika Suraksha Sanhita Bill, 2023 and
The Bharatiya Sakshaya Bill, 2023

Ref : My letter dated 27/10/2023.

Please refer to my letter cited in the reference. I have given my dissent note in that letter as the committee was convened to adopt the draft report on 27/10/2023. However, the adoption was postponed to 06/11/2023. As the dissent note is to be given after the adoption of the draft report, I am once again giving this dissent note once again, to comply with the procedure. Please consider the same.

1. At the outset i concur with the opinion of the Hon'ble Members Mr. P.Chidambaram, Mr.Dayanidhi Maran and Mr.Derik O'beran that
 - a. These Bills shall not be rushed by this Committee in this undesirable speed.
 - b. These Bills require more consultation with State Governments, Judges, Police Authorities, Bar Council of India, State Bar Councils, Advocate Association, Bar Associations, Senior Advocates, Advocates, Women Lawyers' Association, Eminent Jurists, Academicians, various luminaries and other stakeholders etc.


N.R.Elango

- c. The naming of these Bills in Hindi/Sanskrit will amount to undermining the Federalism, in as much it goes against the linguistic feelings of the non-Hindi speaking Indians. In spite of various objections and suggestions the Committee is not considering the violation of Article 348 of the Constitution of India.
2. It is very obvious that, various valuable suggestions of the domain experts who were examined by the Committee are not at all considered in the draft report.
3. Suggestions regarding the abolition of death sentence is not at all considered in the draft report. I urge the Committee to deliberate on this issue alone for at least three days. Views of the stakeholders, experts to be obtained on this issue. This is the golden opportunity to consider, to do away with the death penalty. Humanism will be ever grateful to us if we deliberate and abolish the death penalty.
4. I am of the strong view that this Committee should not stop with consulting the domain experts but also have a wide consultation with the State Governments, Judges, Police Authorities, Bar Council of India, State Bar Councils, Advocate Association, Bar Associations, Senior Advocates, Advocates, Women Lawyers' Association, Eminent Jurists and the Academicians.
5. As these three Bills will have a large implication on the everyday life of the millions of Indians, I request the Committee to have a balanced and slow approach in its recommendations.
6. The Parliament and its Committees are meant for People and not the vice versa. What the Parliament by its majority wants to be the law is not correct approach to the democracy. The Parliament and its members have to think, deliberate, consult and enact laws which are serving best interest of the citizens of our country. I am of the view that this is completely overlooked by the Committee and rushing of these Bills is the evidence of it.
7. However, I am here with enclosing my dissent note to the draft reports Bharatiya Nyaya Sanhita Bill 2023, The Bharatiya Nagarika Suraksha Sanhita Bill, 2023. I am also enclosing a separate suggestion to clause 187

of The Bharatiya Nagarika Suraksha Sanhita Bill, 2023 which is equivalent to section 167 of the Code of Criminal Procedure 1973.

8. I have no suggestions to the draft report on The Bharatiya Sakshaya Bill, 2023 as I note three of my suggestions were taken into consideration by the Committee in the draft report. How ever my strong dissent may be recorded in naming the Bill as The Bharatiya Sakshaya Bill, 2023 and I request the Committee to recommend the Parliament to name it as The Indian Evidence Act 2023.

Thank you,

A handwritten signature in black ink, appearing to be 'N.R. Elango', with a long horizontal stroke extending to the right.

(N.R.ELANGO)

ENCL:

1. Dissent note to the draft report on Bharatiya Nyaya Sanhita Bill 2023
2. Dissent note to the draft report on The Bharatiya Nagarika Suraksha Sanhita Bill, 2023
3. Suggestions to clause 187 of The Bharatiya Nagarika Suraksha Sanhita Bill, 2023 which is equivalent to section 167 of the Code of Criminal Procedure 1973.

Dissent note by N R Elango to the report no.246 of the Department Related Parliamentary Standing Committee on Home Affairs on The Bharathya Nyaya Sanhita, 2023.

Re; The necessity of repealing The Indian Penal Code, 1860 is not made clear.

I state that the three repealing bills namely, The Bharatya Nyaya Sanhita, 2023, The Bharatiya Nagarik Suraksha Sanhita, 2023 and The Bharatiya Sakshya Bill, 2023 were introduced in the Lok Sabha and referred to this committee. The statement of objects and reasons of the bill at paragraph 4, it is stated that the Indian Penal Code, 1860 is being repealed to streamline provisions relating to offences and penalties and to deal effectively with the offences of organized crime and terrorist activities. It is also stated that the fines and punishments for various offences have been suitably enhanced. It is also stated at para 5 that the “notes on clauses explain the various provisions of the bill”. But none of the notes on clauses is explaining anything, but they are mere repetition of the clauses. It is not made clear why punishment of several sections was increased, the reasons behind such increased punishment and the rational of it are not explained in the notes on clauses. It seems randomly punishments are increased for few offences without assigning any reason.

But for rearranging the sections, enhancing punishments without reasons and omitting sections 124A, 377 and 497 IPC, no new definition, explanation is given in the new bill. Such an exercise of merely rearranging the section will lead to lot of confusion to understand what is the new section for the offences vis-a-vis Indian Penal Code, 1860. This

will take at least 5 – 10 years for the lawyers and the judges to correlate them. The difficulties of the investigating agency will be much more and we cannot expect every constable to carry a comparative chart of Indian Penal Code and The Bharatiya Nyaya Sanhita.

Hence, I suggest that the arrangement of sections should be maintained as in IPC,1860 and the amendments can be brought to the sections wherever it is required, instead of repealing the entire Indian Penal Code, 1860 and enacting The Bharatiya Nyaya Sanhita, 2023.

The draft report at page 4 para 1.10, it is stated as follows :

“The Committee appreciates the work done by the Ministry of Home Affairs and the Ministry of Law & Justice in undertaking this mammoth task of drafting comprehensive amendments to the criminal laws and 4 years of intense discussions for making new laws that imbibe Indian thought process and the Indian soul. A comprehensive review of criminal justice system in our country was a need of the hour to bring it on par with the contemporary aspirations of the people. Having taken a citizen-centric approach, these proposed laws serve as a reassurance to the Indian citizens. The Committee feels that these Bills are much-awaited and much-needed reforms as well as imperative for smooth and transparent functioning of our legal system.”

I find no new clause that imbibe Indian thought process and the Indian soul. This bill is also not having any citizen centric approach. I am of the view that there is no provision introduced, no new definition of the offences is given except adding or deleting some words in the existing provisions, adding new offences, which are already punishable under special

enactments, enhancing the punishment of few offences without any rationale. This bill achieves nothing.

Re. Clause (1) The Bill is named in Hindi.

In fact, during the discussions, it was informed that it was not a Hindi name but a Sanskrit name. It was suggested that the naming of the bill in Hindi/Sanskrit is not violating Art.348 of the Constitution of India. It was stated that though the name is in Hindi/Sanskrit it is transliterated in English. The observations of the committee that “the text of Sanhita is in English, it does not violate the provisions of Art.348” is unacceptable. Such observation is incorrect, illegal and violative of the Constitution of India. This exercise of the Government amounts to grossly violating the linguistic feeling of the Indians. I see every reason to denote this exercise, as an attempt to impose Hindi on non-Hindi speaking Indians. Already a lot of discontent is brewing in the ground because of naming these bills in Hindi/Sanskrit. I appeal the government to desist from naming these bills in Hindi and name it as the Indian Penal Code, 2023 and not The Bharatiya Nyaya Sanhita, 2023.

I state that in most of the definition clauses the word ‘denotes’ is sought to be amended as ‘means’. The word ‘denotes’ is having wider meaning than that of ‘means’. Lot of confusion will prevail if the word ‘denotes’ is replaced with ‘means’. In a penal statute while defining the words it is always better to have a wider meaning than that of a narrower meaning. Hence, in all those definitions where the word ‘denotes’ is replaced with ‘means’, the word ‘denotes’ shall be retained.

Re. Clause (102) The Judgement of the Supreme Court in *Mithu vs State of Punjab* is to the effect that there is no intelligible differentia in sentencing a person only with death sentence under section 303 of IPC. Though in the present attempt for clause 102 of Bharatiya Nyaya Sanhita, an alternate sentence to the death is provided, namely imprisonment for life which means imprisonment for the remainder of the person's life, this also will fall foul of the judgement in *Mithu vs State of Punjab*. In my opinion clause 102 is to be omitted.

Re. Clause (109, 110) In addition to the recommendations of the committee, I am of the view that since "Organised crime" is now sought to be introduced in the general law. The views of the State where Special Acts for organized crime is enacted and effectively implemented have to be consulted in this regard. Otherwise, those states will lose the opportunity of enforcing their special enactment for organized crimes, as they will be falling under the 'occupied field' of this Bharatiya Nyaya Sanhita. Then, those states may be compelled to reenact those acts and to get the assent of the President of India.

Re. Clause (111) Most of the offences defined under this clause are already defined and punishable under Unlawful Activities Prevention Act, 1967. UAPA, 1967 is a Special Enactment, it is having a special procedure with regard to investigation, bail etc. If the same provisions are incorporated in the Bharatiya Nyaya Sanhita, it will cause lot of confusion in the matter of registration of a case, investigation, inquiry and trial of a particular offence. I apprehend that the offenders who fall under both the enactments will attempt to escape the rigor of UAPA, 1967. Even the recommendation at paragraph 3.23.3 is to the effect that an approval by

a senior police officer, whether an FIR be registered under the UAPA or the Bharatiya Nyaya Sanhita is required. This itself shows that there is an overlapping between UAPA and Bharatiya Nyaya Sanhita and such overlapping will cause confusions. How a Police officer, though he is a senior officer can decide under which enactment a person is to be prosecuted. This is to be decided by the court.

Re. (115) The suggestions of the committee with respect to clause 101, that it recommends to the Government that the punishment of 7 years be deleted and also the opinion of the Attorney General and Solicitor General of the country may be sought in this regard, is equally applicable to this clause. So, in my opinion, the advice of the Attorney General and Solicitor General is also to be taken for this clause as well.

In my opinion clause 45 defines abetment of a thing, which reads as follows:

Abetment of a thing is according to the bill is by 3 methods:

- a) Instigation
- b) Conspiracy and
- c) Intentionally aiding

This definition is same as that of section 107 of Indian Penal Code, 1860. It may be noted that the Indian Penal Code was enacted in 1860 and section 120 A and 120 B of Indian Penal Code, which fall under Chapter – VA of the Indian Penal Code, were inserted only through Act.8 of 1913. It can be seen from 1860 to 1913, the offence of conspiracy was not an independent offence and classified only as an abetment. However, after

introduction of Chapter – VA in 1913, necessary amendments were not brought in section 107 of Indian Penal Code to delete an act of conspiracy as a part of abetment. Prosecuting a person as a conspirator under section 61 of the Bharatiya Nyaya Sanhita is different from prosecution a person as an abettor through conspiracy under section 45 of the Bharatiya Nyaya Sanhita. If a person is prosecuted as an abettor through conspiracy, the prosecution will have two disadvantages:

- 1) A conspiracy is an independent offence. Such offence can be independently tried and is punishable. Whereas a person termed as an abettor through conspiracy, he cannot be prosecuted independently for such offence.
- 2) If a person is charged for conspiracy under clause 61 Bharatiya Nyaya Sanhita, Clause 8 of Bhartiya Sakshya Bill, 2023 which is similar to section 10 of the Indian Evidence Act, 1872 can be pressed into service by the prosecution. But if he is prosecuted as an abettor through conspiracy, it will be very difficult for the prosecution to take advantage of clause 8 of the Bhartiya Sakshya Bill, 2023 which is sec 10 of Indian Evidence Act, 1872.

Hence, I am of the opinion that clause 45 of Bharatiya Nyaya Sanhita should be amended by omitting sub clause b of clause 45.

I am of the opinion that explanation 5 to clause 46 is to be omitted. Explanation 5 is self – contradictory. It says it is not necessary for the commission of offence of abetment by conspiracy that **the abettor should concert the offence with the person who commits it.** In the next sentence it says that it is sufficient if he **engages in the conspiracy.** The word ‘concert’ means, “acting together pursuant to an agreement, whether

formal or informal”. The word conspiracy also denotes agreement to commit a crime. In both the words, agreement is the basic element. Agreement to commit an offence is not alone a conspiracy, agreement to do a legal act through illegal means is also conspiracy. Hence, this explanation is self-contradictory. So, in my opinion explanation 5 to clause 46 of the Bharatiya Nyaya Sanhita will cause more confusion and hence the same need to be omitted.



सत्यमेव जयते

DEREK O'BRIEN

Member of Parliament, Rajya Sabha

Leader, All India Trinamool Congress Parliamentary Party, Rajya Sabha

8 November, 2023

To,
Shri Brij Lal,
Hon'ble Chairperson,
Parliamentary Standing Committee on Home Affairs

Note of dissent on BNS, 2023 and BNSS, 2023.

Respected Chairperson,

As a member of the Home Affairs Parliamentary Standing Committee that is deliberating on the three proposed bills, I vehemently express my dissent regarding two of these Bills; the new Penal Code (BNS) and the new Criminal Procedure Code (BNNS).

The feedback regarding the problems with the Sakshya (Evidence) Bill was well taken and problems with the bill are covered by the report of the Committee.

There are multiple reasons for this strong dissent.

A. METHODOLOGY AND PROCEDURE OF THIS COMMITTEE IN DRAFTING THESE REPORTS

B. DEMERITS OF THE DRAFT REPORT

As per precedent, A and B to please be included as part of the committee's dissent note.

Sincerely,

Derek O'Brien

Enclosed: As above (81 page dissent note)

DISSENT ON CRIMINAL LAW BILLS

DRAFT REPORT OF PARLIAMENTARY
STANDING COMMITTEE ON HOME A
FFAIRS

DEREK O'BRIEN

General statutes of criminal law are here for the ages. They will affect the lives of the whole population of India including the economically weaker Sections and the marginalized. General statutes of criminal law have to be crafted with utmost care, it is imperative to scrutinize and dissent when necessary. The following is an examination of the Criminal Law Bills, aiming to shed light on their potential ramifications and stimulate critical discussion. In an effort to ensure that the principles of justice and fairness remain at the heart of our legal system, this dissent seeks to address concerns, ensure due process is followed, spark debate, and advocate for a more equitable and balanced approach to the new criminal legislations under consideration of the Parliamentary Standing Committee on Home Affairs.

INDEX

Particulars	Page No.
1. Methodology and Procedure of this Committee in Drafting these Reports	1
2. Demerits of the Draft Report	9
3. Annexure A- Intervention- Parliamentary Standing Committee on Home Affairs (Part I)	23
4. Annexure B- Intervention- Parliamentary Standing Committee on Home Affairs (Part II)	38
5. Annexure C - Letter to Chairman Dated 19 August 2023	58
6. Annexure D - Letter to Chairman Dated 11 September 2023	59
7. Annexure E - Letter to Chairman Dated 13 September 2023	61
8. Annexure F - Letter to Chairman Dated 14 September 2023	64
9. Annexure G - Letter to Chairman Dated 22 September 2023	67
10. Annexure H - Letter to Chairman Dated 27 September 2023	68
11. Annexure I - Letter to Chairman Dated 3 October 2023	74
12. Annexure J - Letter to Chairman Dated 23 October 2023	76
13. Annexure K - Letter to Chairman Dated 30 October 2023	81

A. METHODOLOGY AND PROCEDURE OF THIS COMMITTEE IN DRAFTING THESE REPORTS

I. NO NEED FOR NEW BILLS WHICH ARE 93% COPY PASTE LEGISLATION

The fact that approximately 93% of the existing Criminal Law remains unaltered, 18 out of 22 chapters have been copy pasted in these new bills implies that the pre-existing legislation could have been effortlessly modified to incorporate these specific changes. It appears that there was no requirement for an entirely new legislative framework, mostly for the purpose of renumbering and reorganizing the existing legal provisions. *** . Suspicion is generated whether the effort is in vain and malafide.

II. * COMMITTEE PROCEDURE AND AVOIDING QUALITY STAKEHOLDER CONSULTATION**

I would like to highlight the glaring gaps in the methodology of drafting this report. The current process lacked inclusivity in stakeholder consultations required for legislation of such magnitude. ***. Many of the people called to testify had strong leanings or were associated with the ruling dispensation. Multiple verbal and written requests made by the undersigned to invite experts and practitioners to testify before this committee were, unfortunately, ***. (See Annexure- E, F, G, H, J)

Also, a broader spectrum of opinions, especially from those directly impacted, must be sought to ensure a comprehensive understanding and representation of diverse perspectives. *** Yet again, important legislation is being *** and imposed.

In 2020, the Ministry of Home Affairs established a committee led by Prof. Ranbir Singh, the former Vice Chancellor of the National Law University,

*** Expunged as per Rule 90(7)(i) of Rules of Procedure and Conduct of Business in Rajya Sabha

Delhi, to undertake a comprehensive review of the three codes of criminal law. However, it is essential to note that this committee was marked by a striking lack of diversity. All its members were male, and what's more, they shared not only a common gender but also a similar social identity, professional background, and experience.

Regrettably, the committee lacked representation from various marginalized groups, including women, Dalits, religious minorities, adivasis, LGBTQ individuals, and those with disabilities. The absence of such diverse perspectives is a significant concern, particularly when addressing matters of such magnitude and societal impact.

In a country as diverse as India, where a wide range of perspectives, interests, and concerns need to be addressed, diverse and extensive stakeholder consultation is essential to ensure that laws are fair, effective, and capable of addressing the complex and multifaceted challenges facing the nation. It not only enhances the quality of legislation but also promotes a more inclusive and accountable democratic process.*** .

Lakhs of stakeholders including judges, lawyers, students, paralegals, will have to relearn the laws. Relearning new laws can disrupt established legal practices and procedures, potentially causing confusion and delays in the legal system. Significant resources may be required to update educational materials, provide training, and ensure stakeholders are adequately prepared to work with the new laws. Relearning new laws can be a complex and resource-intensive process that has a significant impact on the legal community, potentially affecting the delivery of legal services and the consistency of legal decisions.

In any case, the government has only sought inputs after the introduction of this bill. By seeking input before introducing a bill, the government can involve a broader range of perspectives, including those of experts,

*** Expunged as per Rule 90(7)(i) of Rules of Procedure and Conduct of Business in Rajya Sabha

affected communities, and the general public. This would have ensured that diverse voices are considered in the lawmaking process, promoting inclusivity and democratic values.

I strongly recommended some consultations due to their critical importance. (Please refer Annexure A)

III. NAMES OF THESE BILLS SHOULD BE IN ENGLISH AS WELL AS HINDI.

The names of these Bills being in Hindi is not suitable for the whole of the country. This can not only be called Hindi imposition but is also unconstitutional. Article 348 of the Constitution mandates that English language be used in Acts and Bills. It reads-

"348. Language to be used in the Supreme Court and in the High Courts and for Acts, Bills, etc

...

(b) the authoritative texts

(i) of all Bills to be introduced or amendments thereto to be moved in either House of Parliament or in the House or either House of the Legislature of a State,

(ii) of all Acts passed by Parliament or the Legislature of a State and of all Ordinances promulgated by the President or the Governor of a State, and

(iii) of all orders, rules, regulations and bye laws issued under this Constitution or under any law made by Parliament or the Legislature of a State, shall be in the English language."

But the report still considers it to be constitutional. In fact it even goes on to propose use of Hindi in more places by saying- *"The Committee recommends that the word "Act" in the first proviso may be replaced with "Adhiniyam" as is already used in preceding portions of the Bill."* This goes against the letter and

spirit of Article 348 of the Constitution.

Funnily enough, the report of the committee in Hindi only came a night before the adoption.

Suggestion: *NAMES SHOULD BE IN ENGLISH AS WELL AS HINDI. When translated into English, the titles of these bills would be: the Indian Justice Code, 2023, the Indian Citizen's Protection Code, 2023 and the Indian Evidence Bill, 2023. If the new law is titled the Indian Citizen's Protection Code, 2023. It will reflect the idea of a procedural shield for citizens against the State in the criminal process.*

Use of these laws in local languages is also essential to enhance understanding and engagement, ensuring that information is accessible to a broader audience and fostering a deeper connection with the content, thereby promoting effective communication and inclusivity.

IV. LACK OF DISCUSSION AMONGST MEMBERS OF THE COMMITTEE AND LIMITING THE MEANINGFUL PARTICIPATION OF THE OPPOSITION.

It is clear that a consultation process unfolded, with ***. The urgency to conclude discussions on bills that could significantly alter our nation's safety and law and order regulations raises concerns about the democratic and informed nature of the decision-making process. General statutes of criminal law are here for the ages. General statutes of criminal law will affect the lives of the poor. General statutes of criminal law have to be crafted with utmost care.

Furthermore, ***. As a result, meetings were scheduled during the festive season and when members had prior constituency engagements, programs and events. ***. Allowing the opposition only a meager hour to scrutinize and critique these bills is far from an exhaustive exercise in

*** Expunged as per Rule 90(7)(i) of Rules of Procedure and Conduct of Business in Rajya Sabha

scrutiny, which is vital to ensuring that such consequential legislation is thoroughly examined and rigorously debated.

V. * TO ADOPT REPORT RIDICULES LEGISLATIVE SCRUTINY- ONLY A STUNT BEFORE ELECTION 2024.**

Given the far-reaching consequences associated with these bills, they necessitate a meticulous examination of every provision. Basic drafting errors require close scrutiny, and various aspects, including the rationale behind specific provisions and their potential impact on the public, demand thorough examination and extensive discussion. Hasty passage of these bills may result in unintended consequences and contribute to public dissatisfaction.

The urgency with which these bills are being pushed through stands in stark contrast to the deliberative process observed by the same Home Affairs Committee in discussing Police Training, Modernization, and Reforms. It is worth noting that the committee, initially constituted in September 2020 and later reconstituted in September 2021, took approximately three years to deliberate on that subject, underscoring the importance of careful consideration and comprehensive evaluation in the legislative process.

*** Expunged as per Rule 90(7)(i) of Rules of Procedure and Conduct of Business in Rajya Sabha

VI. A RESULT OF RUSHING AND *- NUMEROUS DRAFTING ERRORS**

It is imperative to emphasize the presence of basic drafting errors within these bills, as these errors can have a profound impact on the interpretation and implementation of the proposed laws. Correcting these errors is not just a matter of procedural correctness; it is crucial for ensuring the clarity and effectiveness of the legislation.

My colleagues Shri N. R. Elango and P. Chidambaram have diligently pointed out a multitude of drafting errors, underscoring the need for thorough revisions. However, the rushed nature of this legislation has left limited room for addressing these critical concerns.

Furthermore, it is regrettable that the committee did not allow for more extensive consultations, *** . The absence of such deliberation and due process further compounds the risk of perpetuating these drafting errors, ultimately diminishing the quality and efficacy of the proposed laws.

VII. ABSENCE OF PUBLIC ENGAGEMENT

The manner in which this legislative process has been conducted raises legitimate concerns about lack of transparent and honest legislative intent. Crafting laws, especially those bearing such extensive significance, should ideally be carried out with utmost transparency and inclusive consultation among all concerned parties.

The Pre-Legislative Consultation Policy of 2014, which is designed to ensure a fair and open process, mandates a thirty-day consultation period with the general public before a law can be approved by the Cabinet for introduction in Parliament. This consultation process, which involves sharing the draft with the public, must be accompanied by (i) explanations for its enactment,

*** Expunged as per Rule 90(7)(i) of Rules of Procedure and Conduct of Business in Rajya Sabha

(ii) financial considerations, and (iii) an evaluation of the law's potential impact. Moreover, the comments received during the consultation should be made available on the ministry's website.

In the present case, however, a committee was formed with its members and objectives *** There exists a notable absence of a clear and compelling rationale for why such a substantial reform was undertaken, especially considering that, according to the Home Minister's own statement in Parliament, the primary objective appeared to involve alterations to a few specific Sections of the law. This lack of transparency and insufficient justification raises questions about the intentions behind the legislative process.

In addition to these concerns, while these bills claim to be decolonised, the retention of certain provisions contradicts this narrative. A more comprehensive effort towards decolonisation is needed to truly reflect the evolving needs of our society. There are many concerns still arising from these Bills and I will once again point out some of the major concerns.

*** Expunged as per Rule 90(7)(i) of Rules of Procedure and Conduct of Business in Rajya Sabha

B. DEMERITS OF THE DRAFT REPORT

PENAL CODE (BNS)

I. Clause 5 Commutation of a sentence

The clause gives the executive the powers to commute an offender's sentence punishment for any other punishment. Allowing the executive to commute sentences can blur the separation of powers in a government. It gives the executive branch, which is responsible for enforcing the law, a role in altering or mitigating the legal punishments determined by the judiciary. This could potentially lead to an imbalance of power and an infringement on the judiciary's independence. Executive decisions might be swayed by electoral or popularity concerns rather than solely focusing on justice and the merits of individual cases.

Commutations can be seen as undermining the authority and decisions of the judiciary. It may give the impression that the executive branch can override or second-guess the judiciary's determinations, eroding trust in the legal system.

II. Clause 11 Solitary Confinement

This clause should be reconsidered as solitary confinement is inhumane. Research has shown that solitary confinement is not an effective tool for deterrence or rehabilitation. It does not reduce recidivism or promote positive behaviour change; instead, it can increase aggression and antisocial behaviour. It has been shown to have serious detrimental effects on individuals' mental and physical well-being, and it raises ethical and human rights concerns. The characterization of solitary confinement as a brutal type of incarceration by the Supreme Court of India in the case of *Kishore Singh Ravinder Dev v. State of Rajasthan* highlights the court's recognition of the severe and adverse effects of solitary confinement on individuals.

III. Clause 69 - Promise to Marry

Relationships and decisions about marriage are deeply personal matters that should be left to the individuals involved, subject to only some basic safeguards that may be consensually instituted by the society. Criminalizing a Promise to Marry can be seen as an undue intrusion into individuals' Right to Privacy and autonomy. Determining whether a promise to marry has been made can be subjective and challenging to prove. Intentions can change over time, and proving that a promise was genuinely made with the intention to marry can be difficult.

Defining what constitutes a legally binding Promise to Marry can be vague and open to interpretation. This lack of clarity can lead to inconsistencies in enforcement and judgments.

Criminalizing a Promise to Marry can be viewed as an unwarranted intrusion into the fundamental Right to Privacy and personal autonomy, which are cherished principles in a democratic society. In this context, a more nuanced and rights-based approach to addressing matters related to promises to marry would be both pragmatic and respectful of individual freedoms and choices.

IV. Kidnapping and begging- Clause 137

The clause should exclude the exception of lawful guardian of such child. Even guardians who wrongfully push children into begging should be rigorously punished. Excluding the exception of lawful guardians in a clause punishing those who wrongfully push children into begging is essential to safeguard the rights and well-being of vulnerable children. It sends a strong message that all individuals, regardless of their legal relationship with the child, will be held accountable for such harmful actions, acting as a powerful deterrent against child exploitation. This approach prioritizes the child's best interests, prevents potential legal loopholes, and aligns with international human rights standards, fostering a child-centered and protective legal

framework that leaves no room for evading responsibility in cases of child exploitation.

V. Sedition law- Clause 150

I would like to include a passage from the report. *“The Committee compliments the Government in deleting the term ‘sedition’ from criminal law by rephrasing it without compromising the security of the state. The Committee finds it as a very progressive development.”*

The Report acknowledges the fact that the Sedition law has just been paraphrased and retained. The 22nd Law Commission suggested that sedition should be well defined. The Union government decided to do the opposite of that. The provision in the new bill gives it such a broad definition that it can encompass any act in the name of endangering the unity and integrity of India. It leaves a lot of room for discretion which is the opposite of what was advised by the law commission. Clause 150 talks about Acts endangering sovereignty, unity and integrity of India. Sedition gets a sinister backfoot entry in the proposed legal regime. This broad definition could potentially infringe on individuals' rights to free expression and peaceful dissent.

The broad and vaguely worded sedition provisions can create a chilling effect on free speech and peaceful protest. Individuals may self-censor their opinions and criticisms, fearing legal consequences, which can undermine democratic values and civil liberties.

Our concerns are rooted in the potential for misuse and abuse of the redefined sedition law. Such broad and discretionary provisions can be employed to stifle legitimate dissent and criticism, limiting freedom of expression and potentially infringing on individuals' rights.

VI. The problem with not defining community service.

The introduction of Community Service ‘under clause 4(f) of the BNS is a welcome step. In criminal justice systems that emphasize rehabilitation, community service provides an opportunity for offenders to make amends for

their actions and demonstrate their commitment to positive change. It can help them develop a sense of responsibility and contribute positively to society and aligns with the principles of restorative justice. But the same is nothing without giving a proper definition to it. A clear definition will outline the objectives and goals of Community Service, ensuring that both offenders and those responsible for overseeing its execution understand the intended outcomes. It will specify the nature and scope of the service, such as the types of activities, the duration, and the target beneficiaries.

VII. Clarity in definition of life sentence

The current definition of "imprisonment for life" within the BNS is not explicitly clear. It appears to be using the term "imprisonment for the remainder of a person's natural life." However, in the Indian Penal Code (IPC), Section 53, the term "imprisonment for life" is used without specifying whether it means "imprisonment for the remainder of a person's natural life" or if it is equivalent to a "whole life sentence."

There needs to be clarity about whether the convicts are expected to remain in prison for the entirety of their natural life or are eligible for release. The proposed definition of "imprisonment for life" in the BNS is not explicitly clear, and it differs from how "imprisonment for life" is generally understood in the context of the Indian Penal Code. To avoid confusion and ensure legal clarity, the definition in the BNS be aligned with the understanding that "imprisonment for life" means a "whole life sentence" unless otherwise specified. This would help in harmonizing the definitions and interpretations across different legal contexts in India.

VIII. Offences Relating to Elections

One of the general patterns in contemporary India's criminal law is that offences that are particularly difficult to regulate and especially elaborate in their organisation internally while having a large-scale impact on society are addressed by 'special statutes'. These special statutes while being harsh in

punishment are rigorous in the procedural safeguards, they offer the accused. The emphasis being that there are checks and balances present in the quest of the state to prosecute and the efforts of the accused to defend herself. Any detraction from the procedural protections that general criminal law offers, will have checks in place in these special statutes. Offences related to elections should be on Representation of People Act. Similarly with UAPA, the special legislation should remain and amended if need be. But it should not be subsumed in the IPC.

IX. Clause 264- Defamation

There should be a limitation on filing cases for defamation. Imposing a time limitation on defamation claims helps protect the fundamental principle of free speech. Without such limitations, individuals or organizations could potentially bring defamation claims many years after an alleged defamatory statement was made. This could have a chilling effect on free expression and public discourse, as people may become reluctant to express their opinions or engage in critical discussions for fear of facing legal action at any time in the future.

X. Clause 282- Conveying person by water for hire in unsafe or overloaded vessel

Looking at the gravity of the offence, punishment should be increased that from 6 months to 3 years.

XI. Clause 277- Fouling water of public spring or reservoir.

Looking at the gravity of the offence, punishment should be increased.

XII. Clause 275- Sale of adulterated drugs.

Looking at the gravity of the offence, punishment should be increased.

XIII. Clause 275 and 276- Sale of adulterated drugs.

Looking at the gravity of the offence, punishment should be increased.

XIV. 104(1)- Death by negligence

In medical negligence cases, the standard of care expected of healthcare professionals is crucial. Punishment should be based on whether the healthcare provider's actions or decisions deviated from the accepted standard of care within the medical community. Not all adverse outcomes in medicine are the result of negligence. Hence the punishment should be reduced from 7 years to 5 years

XV. Clause 213- Refusing to sign statement

Requiring individuals to sign statements under the threat of imprisonment or fines can be seen as coercive and may result in individuals signing statements against their will. This can undermine the voluntariness of the statement and potentially lead to false or coerced confessions. Hence this provision should be reconsidered.

Criminal Procedure- BNSS

XVI. Impact on the Digital Ecosystem- BNSS

Clause 94 of the Bharatiya Nagarik Suraksha Sanhita, 2023, which deals with powers to summon for evidence, explicitly includes summoning of “digital evidence,” and covers any electronic communication such as messages, call recordings, and emails, as well as electronic communication devices such as mobile phones, laptops, cameras, and any other electronic device that may be specified by the government through notification in the future. A court also has the right to order search and seizure of such evidence for various reasons, including if the person in possession of the evidence is not expected to produce the same.

A mobile device or a laptop contains a lot of information which might not be relevant to the case because electronic devices in today's age contain all information pertinent to an individual's general existence. So, there's a question about the invasion of the Right to Privacy

because of the scope of information that's in these devices. Secondly, the collection of such devices might also go against the Right against self-incrimination.

XVII. Non-Inclusion of trans-women in definition of rape- BNS

The Sanhita also leaves the question of inclusivity answered as the provision of rape is strictly limited to a woman and does not include a transgender woman. The Transgender Persons Act, 2019 only recognizes 'sexual abuse' for which the maximum punishment is two years. The law on rape should also bring transgender woman within its purview.

XVIII. Different punishments for murder depending on the number of people convicted.- BNS

As per Clause 101 of the BNS, when a man commits murder, punishment is life imprisonment or death. No other option. But if a group of 5+ men acting in concert commits murder on grounds mentioned in this clause, there is an option to give a punishment of 7+ years imprisonment.

XIX. Report suggests criminalizing adultery- BNS

The Supreme Court found that Section 497 acknowledged the Right to Privacy as a fundamental right. The court held that the state should not interfere in the private matters of consenting adults and that their choices in matters of personal relationships should be protected. Moreover, one of the factors that influenced the decriminalization of adultery in India was that there were already civil remedies available for addressing adultery, and it was also considered grounds for divorce under Indian family laws. The Report insists on including a gender-neutral provision criminalizing adultery even after the Supreme Court has already decriminalized it.

XX. Expansion of powers granted to the Police- BNSS

Clause 172 of the BNSS seeks to expand the powers of the police while taking preventive action. The police officer “*may detain or remove any person resisting, refusing, ignoring or disregarding to conform to any direction*” under Chapter XII. The Indian Criminal Justice System is based on a due-process model, but giving the Police such wide and discretionary powers during preventive action is essentially pushing us towards a crime- control model. ***.

XXI. Expansion of Police powers- BNSS

Clause 187 (2) and 187 (3) of the BNSS on ‘Procedure when investigation cannot be completed in twenty four hours.’

The extension of the duration for which a detainee can be held in police custody beyond 15 days contradicts the Supreme Court's ruling in *CBI v. Anupam J. Kulkarni*, (1992) 3 SCC 141, which deemed police custody beyond this period impermissible. By elongating the detention period under police custody, the new laws expose detainees to potential threats, abuse, or coercion by the police. The protection of judicial custody, where police require the Magistrate's permission to interrogate a suspect, has been entirely disregarded and nullified by the new laws. Another telling signature of intensifying police raj is the name of reforms!

XXII. Clause 43(3) on ‘Arrest how made.’ - BNSS In the case of *Prem Shanker Shukla v. Delhi Administration* (1980) 3 SCC 526, the Supreme Court unequivocally stated that employing handcuffs is abhorrent to human dignity and infringes upon Article 21 of the Indian Constitution. However, this clause seeks to exert punitive control and is highly indicative of a ‘crime-control model’ than a ‘due-process one.’

Bringing legislation without proper scrutiny is making a *** and the integrity of these institutions are of utmost importance for democratic functioning. Hence, I strongly oppose these Bills.

XXIII. Reconsideration of Death penalty

The following is a glimpse of the statistics about the individuals that get sentenced to death penalty (Source: Project 39A)

1. Economic Background

Based on national statistics, it can be observed that 74.1% of individuals on death row in India come from economically disadvantaged backgrounds, as determined by their occupation and land ownership status. This highlights how the death penalty disproportionately affects the marginalized and disadvantaged in society. Abolishing the death penalty can be seen as a step toward rectifying this social injustice.

2. Educational Background

Among those sentenced to death, 23% had never attended school, while an additional 9.6% had minimal attendance and did not even complete their primary education. It is evident that these groups are disproportionately affected by the provision of death penalty. Abolishing capital punishment can help mitigate this disparity, promote social equity, and protect the rights of minority and marginalized communities.

3. Socio-economic Background

A significant majority, or 76% (279 individuals), of those sentenced to death in India belong to backward classes and religious minority groups.

Death penalty is more than just a form of punishment. Aforementioned data makes it imperative that these aspects are incorporated in our purview. The

*** Expunged as per Rule 90(7)(i) of Rules of Procedure and Conduct of Business in Rajya Sabha

high prevalence of socioeconomic vulnerability and limited education among death row prisoners raises concerns about the potential for wrongful convictions. It emphasizes the importance of ensuring a fair and just legal system to prevent innocent individuals from facing the ultimate punishment. In its 262nd Report from August 2015, the Law Commission of India recommended the abolition of the death penalty for all crimes, with the exception of cases related to terrorism and acts of war.

Abolition of death penalty has not been considered in this report. Such abolition carries several merits that resonate with principles of justice, human rights, and the advancement of society. Foremost, it eliminates the risk of executing innocent individuals, as errors in the criminal justice system can have irreversible consequences. Abolition also upholds the fundamental Right to Life, recognizing that every individual, regardless of their actions, possesses inherent dignity. Moreover, it aligns with the evolving global consensus that values restorative justice over retribution, focusing on

rehabilitation and the potential for redemption. Abolishing the death penalty allows the criminal justice system to focus on rehabilitation and reintegration of offenders into society, rather than permanently ending their lives. This approach aligns with principles of restorative justice and offers a chance for individuals to reform and make amends for their actions. Many countries like Canada, Australia, United Kingdom, New Zealand, Norway, Portugal, South Africa have already done so because of the fact that it can lead to a more humane and enlightened approach to addressing crime and it is disappointing to see a lack of concrete suggestions on the same by the Committee.

The increasing scepticism of the Supreme Court in death row trials is indicative of the fact that this requires institutional redressal. There is a stark contrast between the trial courts and the Supreme Court, as there have been a significant number of acquittals of death row prisoners. When a large-scale institutional reform is required, the death penalty provision should be looked at in context and reconsidered accordingly.

In conclusion, the issue of the death penalty is one that merits careful reconsideration in India and across the globe. The statistics highlighting socioeconomic disparities and the disproportionate impact on marginalized groups, along with the potential for wrongful convictions, underscore the need for a more just and equitable criminal justice system. It is essential to engage in open and informed discussions on this matter to ensure that our legal systems reflect the principles of justice, fairness, and compassion that underpin the values of a modern, progressive society. In sum, broad-based social discussions are warranted on the subject.

XXIV. Accused's Right to File for Discharge

Unlike Section 227 of the Criminal Procedure Code (CrPC), Clause 250(1) of the BNSS expressly acknowledges the accused's right to file an

application for discharge. It also sets a sixty-day time limit for filing this application from the date of committal to the Sessions Court. While this timeline may seem like a step toward reducing trial delays, it overlooks systemic challenges in our pre-trial processes. Accused individuals often lack timely access to their case papers and may not have legal representation during this stage. Moreover, there can be a significant delay between the Magistrate's committal of the case to the Sessions Court and its assignment to a Sessions Judge. This gap affects the production of the accused and the receipt of necessary records. When courts consider whether to grant discharge or frame charges, they must evaluate whether there exists a "strong suspicion" supported by material that the accused committed the offense. Addressing issues related to the timely provision of case papers and ensuring early access to legal representation is crucial for making this opportunity to file for discharge meaningful.

XXV. Pre-trial Incarceration

The challenge of challenging forensic reports under Clause 329 is further complicated by Clause 330, which mirrors Section 294 of the CrPC. It eliminates the requirement of formal proof for documents whose genuineness is uncontested by the opposing party. Clause 330(1) necessitates that parties admit or deny the genuineness of documents within thirty days of their supply, with the possibility of extending this time limit at the Magistrate's discretion upon providing reasons. Notably, a new proviso in Clause 330(1) states that an expert cannot be summoned to appear before the court unless their report is disputed by a party. This proviso applies to all experts, unlike Clause 329. Clause 330, like Section 294 of the CrPC, applies to the pre-trial stage of criminal proceedings, where parties have the opportunity to challenge the genuineness of documents relied upon by the opposing party, ensuring the documents are free from forgery or fabrication.

However, there is a difference of opinion among courts regarding whether expert reports, such as medical or post-mortem reports, can be admitted as evidence without the testimony of the experts who prepared them, in cases where the genuineness of such reports remains unchallenged.

XXVI. Police Custody vs. Judicial Custody

Clause 187 of the BNSS retains the established timelines of sixty or ninety days and the concept of default bail, as found in the CrPC. However, unlike Section 167 of the CrPC, Clause 187(2) additionally allows for detention in custody, whether police or judicial, for a total of fifteen days, which can be imposed at any time during the initial forty or sixty days of the respective sixty or ninety-day period. Consistent with the CrPC, Clause 187(2) grants any magistrate the authority to authorize detention, regardless of their jurisdiction to try the case. In contrast, Clause 187(3) requires a jurisdictional Magistrate. Furthermore, Clause 187(3) permits detention in custody to be authorized beyond the fifteen-day period, without the stipulation that it must be "otherwise than in police custody," implying that police custody can also be used during this extended period. The legislation extends police/judicial custody from 15 to 90 days. This would put tremendous pressure and mental torture on the accused.

XXVII. Removal of References to Metropolitan Magistrates and Assistant Sessions Judge

All references to the posts and powers of Metropolitan Magistrates and Assistant Sessions Judges have been eliminated from the BNSS.

XXVIII. Clause 254

Clause 254 outlines the process for taking evidence in support of the prosecution. It mandates that on the specified date, the Judge must proceed

to collect all evidence presented by the prosecution. Notably, this clause allows the recording of a witness's testimony through audio-video electronic means under sub-Section (1). Sub-Section (2) of Clause 254 permits the deposition of evidence of any police officer or public servant through audio-video electronic means.

This restructured format should make the information more organized and accessible. If you have any specific changes or further details to add, please let me know.

XXIX. Clause 254 - Concerns and Open Court Requirement

While Clause 254 delineates the process for taking evidence in support of the prosecution, it introduces a provision that may raise concerns. Sub-Section (1) of Clause 254 permits the recording of a witness's testimony through audio-video electronic means. This allowance for remote testimony recording might give rise to issues related to transparency, fairness, and the fundamental principle of an "open court." An open court system provides transparency and public scrutiny, allowing for a fair and impartial trial. Recording evidence through audio-video electronic means could potentially undermine this principle by limiting public access to the trial process and raising questions about the integrity of the proceedings. It's essential to strike a balance between leveraging technology for efficiency and ensuring the preservation of fundamental legal principles, such as open court proceedings, to maintain public trust in the justice system.

**DEREK O'BRIEN INTERVENTION- PARLIAMENTARY
STANDING COMMITTEE ON HOME AFFAIRS**

PART I

General statutes of criminal law are here for the ages. General statutes of criminal law will affect the lives of the poor. General statutes of criminal law have to be crafted with utmost care. No rushing through. Let every one of us on this committee commit ourselves to these.

When translated into english, the titles of these bills would be: the Indian Justice Code, 2023, the Indian Citizen's Protection Code, 2023 and the Indian Evidence Bill, 2023. The three bills have since been referred to us on the Parliamentary Standing Committee.

If the new law is titled the Indian Citizen's Protection Code, 2023, it will reflect the idea of a procedural shield for citizens against the State in the criminal process.

□ **Negatives:**

1. Authorises detention in police custody upto 90-day for offences punishable with death, life imprisonment and imprisonment for a term not less than 10 years. Also authorises police custody for upto 60 days for offences where imprisonment is less than the above mentioned offences. This dilutes the Right to life, health (physical and mental) and fair trial.
2. Enables trial in absentia if the judge finds the attendance of the accused in court not necessary "in the interests of justice" or if the accused "persistently" disturbs proceedings in court.

Where did this law come from?

- *The Ministry of Home Affairs in 2020, constituted a committee headed by Prof. Ranbir Singh, former Vice Chancellor of National Law University, Delhi to review the three codes of criminal law.*
- *The committee was constituted of only men. Moreover, they were from similar social identity as well as professional background and experience.*
- *There were no women, Dalits, religious minorities, adivasis, LGBTQ persons, or persons with disabilities on the Committee.*
- *The committee has hardly any full time members unlike previous committees that had been assigned reforms of such magnitude.*

1. METHODOLOGY

A. Contents from letter to Chairman of Home Affairs Committee:

I. First, considering the significance of these three Bills, it is imperative that multiple bipartisan discussions are held at length. It is my earnest request that members of this committee are not rushed and are given multiple opportunities to express themselves. Choice of domain experts, choice of witnesses from across disciplines and the methodology used must always take into consideration the "sense of the house". In the spirit of federalism, it is imperative that the committee must also travel to multiple states to meet stakeholders. Sir, please create an atmosphere for scrutiny, debate and detailed discussion. This will embellish the quality of our output as a committee.

II. Second, the minutes of the meetings must be recorded with due diligence and provide a true reflection of the proceedings. Key points raised by members must reflect in the minutes. (Verbatim records are not a substitute for minutes.) For example, in the meeting that was held on 24 August 2023, Dayanidhi Maran (DMK) had submitted a letter stating objections on how the titles of the said bills are in Hindi. The submission of this letter making multiple points, the summary of its contents, and his intervention does not reflect all in the minutes of the meeting. Recording of such views is an integral part of the democratic process. Please ensure this is done for future meetings. III. Third, considering that the Special Session of the Parliament has been called from 18 September to 22 September 2023, the Members have made multiple commitments in their constituencies and other parts of their State including programs and meetings immediately (one week) after the session. This is a request to schedule the next committee meeting at least one week after the session concludes.

B. Who should the standing committee consult? What is the time frame?

<p><i>Consultations to be done</i></p>
<p>1. <i>Senior practitioners of criminal law who have domain knowledge accumulated over decades of litigation practice and expertise in the area.</i></p>
<p>2. <i>Bar Council of all states in India.</i></p> <p><i>(At least 23 state bar councils)</i></p> <p><i>(30 days)</i></p>
<p>3. <i>The judges of the Supreme Court and high courts.</i></p> <p><i>(Supreme Court- Chief Justice and 33 other Judges appointed by the President of India. High Court- Working Strength of at least 785 judges across 25 high courts)</i></p> <p><i>(6 months)</i></p>
<p>4. <i>The Bar Council of India Supreme Court Bar associations</i></p> <p><i>(At least 20 office bearers)</i></p> <p><i>(20 days)</i></p>

5. *Members of parliament, legislative assemblies, and local councils* play a role in passing laws. Their input can help ensure that proposed reforms align with legislative goals.

(Lok Sabha - 539 members +

Rajya Sabha- 238 members +

State legislative assemblies)

(6 months)

6. *International Organisations:* Collaboration with international bodies like the United Nations and regional human rights organisations can help align reforms with international standards and best practices. *(100 days)*

7. *Media:* Journalists and media organisations can play a role in raising public awareness about the need for criminal justice reform and can provide insights into public sentiment. *(100 days)*

8. *Ethnic and Religious Leaders:* Considering the diverse cultural and religious landscape of India, involving leaders from various communities can help ensure that reforms are sensitive to different perspectives. *(50 days)*

<p>9. <i>Experts on Juvenile Justice:</i> Specialists in juvenile justice can provide insights into how reforms could better address the needs and rights of young offenders. (5 days)</p>
<p>10. <i>Experts on Cybercrime and Technology:</i> Given the rise of cybercrime, involving experts in technology and cyber law is crucial when considering reforms in this domain. (5 days)</p>
<p>11. <i>Prison Officials and Reform Advocates:</i> Individuals working within the prison system and advocates for prison reform can contribute perspectives on conditions, rehabilitation, and the treatment of inmates. (1319 prisons in the country and their officials) (4 months)</p>
<p>12. <i>Inclusive Consultation from the general public</i> including women, Dalits, religious minorities, adivasis, LGBTQ persons, or persons with disabilities etc. (1 month)</p>
<p>13. <i>Governors, chief ministers of states, lieutenant governors and administrators of Union territories.</i> (60-70 officials approx.) (1 month)</p>
<p>14. <i>Legal Scholars and academic institutes</i> (5 days)</p>
<p>15. <i>Law Enforcement Agencies:</i> Representatives from police departments can offer insights into issues related to investigation, evidence collection, and law enforcement procedures. (10 days)</p>

16. *Human Rights Organizations:* NGOs and advocacy groups focused on human rights can provide critical perspectives on how proposed reforms might impact human rights, due process, and individual freedoms.
(5 days)

A total of 1.5 years

C. Domain Experts who must be invited as witnesses

I.U.U.Lalit

He was designated Senior Advocate at the Supreme Court in April 2004. He aided the Court as an *amicus curiae* in many important matters pertaining to forests, vehicular pollution and pollution of the Yamuna river. In 2011, he was appointed as the Special Public Prosecutor in the 2G Spectrum scam case. He also served as the 49th Chief Justice of India.

II. Madan Lokur

He was appointed as Additional Solicitor General of India in 1998. Functioned as Chief Justice of Gauhati High Court from 2010 to 2011, and Chief Justice of High Court of Andhra Pradesh from 2011 to 2012. Has vast experience in Civil, Criminal, Constitutional, Revenue and Service laws.

III. Fali Nariman

Fali Sam Nariman is an Indian jurist. He is a senior advocate to the Supreme Court of India since 1971 and was the President of the Bar Association of India from 1991 to 2010.

IV. Menaka Guruswamy Sr Adv:

Menaka Guruswamy is a senior advocate at the Supreme Court of India. She is known for having played a significant role in many landmark cases before the Supreme Court, including the Section 377 case, the bureaucratic reforms case, the Agustawestland bribery case, the Salwa Judum case, and the Right to Education case.

V. Mr Sidharth Luthra, Sr Adv:

Senior Advocate at the Supreme Court. He was appointed the Additional Solicitor General of the Supreme Court from 2012-2014, during which he represented Union and State Governments in matters such as fundamental rights, environment laws, electoral reform, criminal law, juvenile rights, education and policy issues. Mr Luthra also appeared as the Special Public Prosecutor for the State of NCT of Delhi in the Nirbhaya gang-rape case.

VI. Mr Hariharan, Sr. Adv.

Hariharan N enrolled at the Delhi Bar in 1987 and over the last 34 years, has cemented a presence on the Criminal side of legal practice. For contributions to the practice and development of Criminal Law, he was designated as a Senior Advocate by the Delhi High Court in 2013.

VII. Ms Rebecca John, Sr. Adv.

Rebecca Mammen John has been practising exclusively on the criminal side in the Supreme Court of India, High Court of Delhi and in the Trial Courts of Delhi for more than three decades. She has conducted a wide range of criminal trials and argued appeals dealing with offences under the Indian Penal Code, Unlawful Activities (Prevention) Act, Prevention of Corruption Act and other special statutes. Sriram Panchu

- VIII. Sylendra Babu
- IX. Amit Desai
- X. Rajeev Dhavan
- XI. Siddharth Dave
- XII. Adit Pujari
- XIII. Aditya Sondhi
- XIV. Vrinda Grover
- XV. Professor Faizan Mustafa

II. INPUT NOTE - REFORMING CRIMINAL LAW: Menaka Guruswamy

You might ask why? Because when you have been detained, being questioned and are surrounded by police officers – it's the Code of Criminal Procedure that protects you, limits your detention period in police custody, enables you to access a lawyer, who in turn can push for bail and even ask for quashing of the FIR or Chargesheet against you. Therefore, I particularly like that

Welcome reforms:

There's plenty of welcome reform to our existing criminal procedure. Some of it draws on the technological innovations that have made it into our everyday life. For instance, the entire life of a new case, commencing from the FIR (first information report) leading to a case diary on its way to a chargesheet and culminating in a judgment is now to be maintained online – via digitized recordkeeping. This will make immensely safer the record of the case proceedings and enable quicker access when necessary. Significantly, when our homes are searched and seizure affected on items found, then such proceedings must be accompanied by mandatory video recording. This is a hugely important reform since this is protection against planting of evidence and can be used by the defense to contest alleged seizures.

The Protection Code also provides for the registration of a 'Zero FIR'. This kind of FIR is registered when a police station receives a complaint regarding an alleged offence committed in the jurisdiction of another police station. Here, the original police station registers the FIR and then transfers it to the relevant police station for further investigation.

The Protection Code now makes it mandatory for a forensic expert to visit the crime scene and collect forensic evidence for information relating to an offence that is punishable by imprisonment for at least seven years. Continuing pandemic-era change, the Protection Code allows trials, inquiries and proceedings including examination and recording of evidence to be conducted by an electronic or online mode. This makes it infinitely more convenient for accused and witnesses to participate in and complete these requirements of the processes of a trial.

Another welcome reform pertains to the grant of sanction to prosecute a public servant. The Protection Code now provides that the decision to grant or reject sanction to prosecute a public servant must be reached by the government within 120 days of receiving the request. If the government fails to do so, sanction shall be deemed to be accorded. Additionally, no sanction shall be required in cases involving public servants when accused of sexual offences or trafficking of human beings. More reform comes in the form of a provision that mandates that no person can be arrested without prior permission of an officer of the minimum rank of a Deputy Superintendent of Police for offences punishable with less than three years imprisonment if the accused is above the age of sixty years.

Areas of concern

The most dangerous part of the Protection Code is that it permits the magistrate to authorize detention in police custody for a period beyond the

current 15-day limit, extending up to ninety days. Such detention extending to ninety days is for offences punishable with death, life imprisonment and imprisonment for a term of not less than ten years. The Protection Code enables detention in police custody beyond the current 15-day mandate and up to sixty days for ‘any other offence’ (with imprisonment terms less than the ninety-day detention offences). This is a constitutionally burdensome provision that will impinge on the rights of an accused. Spending ninety days with the police having unimpeded access to an accused is debilitating from the point of view of rights to life, health (including mental well-being) and fair trial. At present for any period beyond the 15-day limit for police custody means that the judge can have the accused detained in judicial custody or order other custodial arrangements.

While there are many reforms that should be welcomed in the Protection Code, 2023- all of that will be rendered meaningless if an accused can be detained to long periods of time in police custody – three months of uninterrupted police custody will render any accused extremely vulnerable to coercion and intimidation. This move must be thought afresh, and members of the parliamentary committee must ask themselves – what if that accused was me?

III. UNDOING CRIMINAL LAW: MAKING HARSH SPECIAL STATUTES THE NORM: Menaka Guruswamy

One of the general patterns in contemporary India’s criminal law is that offences that are particularly difficult to regulate and especially elaborate in their organisation internally while having a large-scale impact on society are addressed by ‘special statutes’. These special statutes while being harsh in punishment are rigorous in the procedural safeguards they offer the accused. The emphasis being that there are checks and balances present in the quest of

the state to prosecute and the efforts of the accused to defend herself. Any detraction from the procedural protections that general criminal law offers, will have checks in place in these special statutes. This general pattern has been deviated from with the introduction on 11.8.2023 of three bills in the Lok Sabha by the Central Government. These bills are intended to dramatically change criminal law.

The BNS, 2023 to replace the Indian Penal Code, 1860, the BNSS, 2023 to replace the Code of Criminal Procedure, 1973 and the Bharatiya Sakshya Bill, 2023 to replace the Indian Evidence Act, 1872 have been tabled in the lower house of parliament.

This law reform effort by the State is at odds with established legislative practice of having separate and distinct harsh ‘special statutes’ with procedural checks and balances. This current effort shows that special laws are being absorbed into general criminal law – without any of the necessary procedural safeguards. This will make it impossible for the accused to defend herself and will bring within the criminal process many innocent people, for whom the process will be punishment and for which very few convictions will be returned. This is a particularly worrying effort – for the purpose of criminal law is not to persecute, but to prosecute ably while affording the accused a fair chance to prove their innocence.

Let me give you one example. Special legislation includes statutes like the Prevention of Money Laundering Act, 2002 (PMLA) and the Maharashtra Control of Organised Crime Act, 1999 (MCOCA, models of which are applicable in other states). Both statutes are illustrations of special legislation intended to combat alleged offences that are elaborate in how they are planned and fulfilled. While the punishments are harsh, both attempt to have some balance in the form of the procedural safeguards they offer. PMLA law has many deficiencies.

Now let's come to 'organised crime'. Provisions that have been introduced into general criminal law statute like the BNS, 2023. . At present, organized crime is principally dealt by the Maharashtra Control of Organised Crime Act, 1999 (MCOCA), which is applicable in both Maharashtra and the National Capital Territory of Delhi. Other states have their own versions of MCOCA. However, the BNS brings it into general criminal law by having provisions that define and punish organized crime within this statute.

The BNS brings organized crime within Chapter VI of the Code that pertains to 'offences affecting the human body.' In the Indian Penal Code, 1860, the equivalent chapter that pertains to 'offences against the body' included classic criminal offences like murder and culpable homicide not amounting to murder. Within this classical framework is introduced the rather elaborate offence of 'organised crime syndicates.' Per the BNS, an organized crime syndicate means 'a criminal organization or group of three or more persons, who acting singly or collectively in concert, as a syndicate, gang, mafia or crime ring indulging in commission of one or more serious offences or are involved in gang criminality, racketeering and syndicated organized crime'.

BNS provides that a definition of 'organized crime' as being 'any continuing unlawful activity including kidnapping, robbery, land grabbing, contract killing, economic offences, drug or human trafficking, weapons or prostitution either as a member of an organized crime syndicate or on behalf of such syndicate, by use of violence, threat of violence, intimidation, coercion, corruption or related activities or other unlawful means to obtain direct or indirect material benefit including a financial benefit shall constitute organized crime'.

Also included within this fold are economic offences which includes criminal breach of trust, forgery, counterfeiting of currency and valuable securities, financial scams, running Ponzi schemes, mass marketing fraud or multi-level

marketing schemes with a view to defraud people at large for obtaining the monetary benefits or large-scale organized betting, any forms, offences of money laundering and hawala transactions.

It's like the drafters thought of all the possible offences that can exist when three or more accused are involved and stuffed them into one unwieldy definition and pasted them into the bill. It is vague, poorly worded, and unwieldy. Everything that definitions should not be. While the punishment is stringent - for anyone 'who conspires or organizes the commission of an organized crime' shall be punishable with imprisonment for a minimum of five years to life in prison. There are no safeguards that criminal law affords, at present.

MCOCA has procedural safeguards that prevent abuse of such a 'special law with stringent and deterrent provisions' as per its statement of objects. For instance, Section 23 presently provides that no information about the commission of an offence of organized crime shall be recorded by a police officer without the prior approval of an officer below the rank of Assistant Commissioner of Police (ACP). Further, no investigation shall be carried out by a police officer below the rank of ACP. No 'Special Court' shall take cognizance of any offence under this Act without the sanction of a police officer of the rank of ACP and above.

MCOCA also has 'Special Courts' that are staffed by judges specially appointed by Government with the concurrence of the Chief Justice of the Delhi High Court. Such a judge should have had experience as an Assistant Sessions or Sessions court judge previously. Importantly, authorization for interception of wire, electronic or oral communication shall be allowed only after an officer not below the rank of Deputy Commissioner of Police, who is supervising the investigation of organised crime, submits an application to the Competent Authority. A Review committee consisting of the Principal

Secretary of Delhi, Law Secretary and Home Secretary shall review orders of the Competent Authority.

In essence, MCOCA an example of a special statute intended to combat an elaborate offence (organized crime), balances the stringency of not only the punishment it mandates, but also the invasion of privacy by wire taps to further enhance the investigation along with procedural safeguards. Great care has been taken by the legislature in the constitution of 'special courts', and the qualifications in terms of prior experience of the judges who will hear such cases. All of this is absent in the reforms that are proposed. What is being weakened are principals of criminal law – and it is the general public that will suffer by way of lack of procedural protections and absence of checks and balances. The right of fair trial and rule of law are also the casualties in the process.

**DEREK O'BRIEN INTERVENTION- PARLIAMENTARY
STANDING COMMITTEE ON HOME AFFAIRS**

PART-II

SOME OTHER ISSUES WITH THESE BILLS

I. **No reasoning as to the requirement of a new legislation.** The old act could easily have been amended to include these changes.

II. **Name of these Bills is in Hindi**

- This name being in Hindi is not suitable for the whole of the country.
- Firstly, it is unconstitutional. Article 348 of the Constitution mandates that English language be used in Acts and Bills.

"348. Language to be used in the Supreme Court and in the High Courts and for Acts, Bills, etc

(1) Notwithstanding anything in the foregoing provisions of this Part, until Parliament by law otherwise provides

(a) all proceedings in the Supreme Court and in every High Court,

(b) the authoritative texts

(i) of all Bills to be introduced or amendments thereto to be moved in either House of Parliament or in the House or either House of the Legislature of a State,

(ii) of all Acts passed by Parliament or the Legislature of a State and of all Ordinances promulgated by the President or the Governor of a State, and

(iii) of all orders, rules, regulations and bye laws issued under this Constitution or under any law made by Parliament or the Legislature of a State, shall be in the English language.

- This constitutes as Hindi imposition.
- NAMES IN ENGLISH AS WELL AS HINDI. When translated into English, the titles of these bills would be: the Indian Justice Code, 2023, the Indian Citizen’s Protection Code, 2023 and the Indian Evidence Bill, 2023.
- If the new law is titled the Indian Citizen’s Protection Code, 2023. It will reflect the idea of a procedural shield for citizens against the State in the criminal process.

SPECIFIC INPUTS ON BNS 2023 (Penal Code)

III. Sedition law

In the new Bill, sedition has NOT been removed, *it has been altered*.

Section 124A (The old sedition law) is part of the IPC. Its use had been kept in abeyance following a Supreme Court order in May 2022. The court had given the government time to re-look the sedition law. This was in lieu of several advocates urging the apex court to strike down sedition as an offence in any form.

*** claimed that sedition has been removed from the list of offences. What happened in fact was its reintroduction in a more draconian manner which can even encroach on the right to protest.

Though the Bharatiya Nyaya Sanhita Bill does not explicitly have a Section 124A in it, it has Section 150. This proposed provision in the new Bill avoids using the term ‘sedition’, but describes the offence as “endangering sovereignty, unity and integrity of India”.

*** Expunged as per Rule 90(7)(i) of Rules of Procedure and Conduct of Business in Rajya Sabha

The 22nd Law Commission suggested that sedition should be well defined. The Union government decided to do the opposite of that. The provision in the new bill gives it a very broad definition. The Bharatiya Nyaya Sanhita, 2023 Section 150 talks about Acts endangering sovereignty, unity and integrity of India. It reads-

“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”

This makes it so broad that it can encompass any act in the name of endangering the unity and integrity of India. It leaves a lot of room for discretion which is the opposite of what was advised by the law commission.

IV. Definition of Terrorist

Section 111 (6) (a) of the BNS says that a “terrorist” refers to any person who “develops, manufactures, possesses, acquires, transports, supplies or uses weapons, explosives, or releases nuclear, radiological or other dangerous substance, or cause fire, floods or explosions.” - The addition of ‘floods’ is ambiguous and bizarre. Moreover these definitions continue to be so vague that it ends up giving the police unreasonably wide powers of arrest.

V. Section 69 - Promise to Marry-

Subjectivity and Intent: Determining whether a promise to marry has been made can be subjective and challenging to prove. Intentions can change over

time, and proving that a promise was genuinely made with the intention to marry can be difficult.

Privacy and Autonomy: Critics argue that relationships and decisions about marriage are deeply personal matters that should be left to the individuals involved. Criminalising a promise to marry can be seen as an undue intrusion into individuals' private lives and autonomy.

Lack of Clear Parameters: Defining what constitutes a legally binding promise to marry can be vague and open to interpretation. This lack of clarity can lead to inconsistencies in enforcement and judgments.

Cultural and Social Dynamics: In many cultures, pre-marital relationships and commitments are complex and can involve various factors beyond just legal obligations. Criminalising such promises might not take into account cultural or social norms.

Enforcement Challenges: Proving the existence of a promise to marry, especially if it was made verbally and without any evidence, can present significant challenges in terms of evidence collection and enforcement.

Gender Dynamics: Depending on how the law is applied, there is a risk that such laws could disproportionately affect certain genders or reinforce harmful gender stereotypes.

SPECIFIC INPUTS ON BNSS 2023 (CRIMINAL PROCEDURE)

- I. **The recently introduced Procedure Bill allows the possibility of requesting a 90-day police custody** period for crimes that carry a sentence of ten years or more. This situation could potentially lead to significant infringements on human rights, particularly if these cases result in a not-guilty verdict.

The Bill permits the magistrate to authorise detention in police custody for a period beyond the current 15-day limit, extending up to 90 days.

- **90-day police custody** - for crimes that carry a sentence of ten years or more
- **60-day police custody** - for “any other offence” with imprisonment terms less than the 90-day detention offences

This could lead to:

Violation of Human Rights: Increasing the period of police custody without proper safeguards could lead to human rights violations, including the risk of torture, coerced confessions, and abuse of detainees. This is particularly concerning given the history of custodial violence and abuse in India.

Denial of Legal Rights: Extending police custody could potentially lead to a denial of basic legal rights, such as the right to a speedy trial and the right to consult with legal counsel. Prolonged detention without proper oversight can undermine due process.

Overburdened Judicial System: According to the Prison Statistics India 2020 report, three in four prisoners in our country’s jails are under trial. This is the highest share of undertrial detainees in prison since 1995. Of these, 49% of the prisoners are between 18 and 30 years of age. Considering that a staggering percentage of such prisoners have spent over a year in prison awaiting trial, these inmates suffer due to our overwhelmingly slow legal process. The very judicial system that is intended to redress and deliver justice pushes them toward greater injustice since courts might face challenges in timely adjudicating cases, leading to potential delays in the delivery of justice.

Risk of False Confessions: Prolonged custody can increase the risk of suspects giving false confessions due to pressure, intimidation, or exhaustion. This can lead to wrongful convictions and miscarriages of justice.

Impact on Marginalised Communities: Lengthening the period of police custody might disproportionately affect marginalised communities and individuals who may not have access to legal representation or resources to challenge their detention.

Data also shows that two in three prisoners under trial belong to the SC, ST and OBC communities. Two in five of inmates from this category were educated below grade X and more than a quarter were illiterate.

Erosion of Trust in Law Enforcement: Instances of abuse, torture, or mishandling of suspects during extended custody periods could further erode public trust in law enforcement agencies.

II. **Clause 356 of the BNSS enables trial in absentia** if the judge is satisfied that “personal **attendance of the accused** before the Court is not necessary in the interests of justice” or if the accused “persistently disturbs the proceedings in Court.” This **gives the Judge wide discretionary powers** to abuse this provision and not give the accused a fair hearing.

III. **Addition of provisions that are demeaning and against human dignity-**

The CrPC has no provision of handcuffs. In *D.K. Basu versus State of West Bengal* (1996), the Supreme Court set guidelines on rights of accused while being arrested or in custody. As per the guidelines, handcuffing violates all standards of decency. Handcuffing is the last resort and should not be followed as a custom.

The BNSS, in Section 43(3), explicitly states that: “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 organised 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.”

IV. Expansion of powers granted to the Police-

Section 172 of the BNSS seeks to expand the powers of the police while taking preventive action. The police officer “*may detain or remove any person resisting, refusing, ignoring or disregarding to conform to any direction*” under Chapter XII. The Indian Criminal Justice System is based on a due-process model, but giving the Police such wide and discretionary powers during preventive action is essentially pushing us towards a crime-control model.

SPECIFIC INPUTS ON BSB 2023 (EVIDENCE ACT)

I. Section 19:

The provision in Indian Evidence Act 1872 which was similar to Section 19 of Bharatiya Sakshya Bill was Section 21. Section 21(1) referred to Section 32 of Indian Evidence Act 1872 (Cases in which statement of relevant fact by person who is dead or cannot be found, etc., is relevant). However, Section 19(1) of Bharatiya Sakshya Bill 2023 instead of referring Section 26, which is replication of Section 32 of Indian Evidence Act 1872, makes a reference to sub-Section (2) of Section 23 of Bharatiya Sakshya Bill, which deals with confession to a police officer. It has no relevance in this Section. Instead, reference should have been made to Section 26 itself (just like Section 32 of Indian Evidence Act) or maybe Section 26(2) of Bharatiya Sakshya Bill.

The same discrepancy can be found in the illustrations (b) and (c) of this Section. Instead of referring to Section 23(2), it should have made a reference to Section 26(2) of Bharatiya Sakshya Bill.

II. Section 36:

There is an error in this Section. This Section was Section 42 in the Indian Evidence Act 1872, and the words used in Section 42 were “other than those mentioned in Section 41”. Section 41 of Indian Evidence Act 1872 was dealing with “Relevancy of certain judgements in probate, etc, jurisdiction.” However, Section 36 of Bharatiya Sakshya bill states “other than those mentioned in Section 31.” Section 31 has no relevance here as it talks about “Relevancy of statement as to fact of public nature contained in certain Acts or notifications” while Section 35 of Bharatiya Sakshya Bill discusses “Relevancy of certain judgements in probate, etc., jurisdiction” and is similar to the Section 41 of Indian Evidence Act 1872.

III. Section 50 of BSB:

This Section was Section 55 in the Indian Evidence Act 1872, and the words used in explanation of Section 55 were “except as provided in Section 54”. Section 54 of Indian Evidence Act 1872 was “Previous bad character not relevant, except in reply”. However, Section 59 of Bharatiya Sakshya Bill is “Proof of documents by Primary evidence” and Section 49 of Bharatiya Sakshya Bill is about “Previous bad character not relevant, except in reply” and it is Section 49 which is similar to Section 54 of the Indian Evidence Act 1872. Use of words “Section 59” here seems erroneous, and it has no relevance in Section 50 of Bharatiya Sakshya Bill.

IV. Section 62 of BSB:

As per it, the manner of proving electronic evidence is mentioned in Section 65B and Section 65B discusses the admissibility of electronic records. In other words, how an electronic record can be made admissible before the court of law is mentioned in Section 65B. It mentions certain requirements which must be fulfilled and then only electronic evidence can be made admissible.

It is Section 63 (Admissibility of electronic records) of Bhartiya Sakshya Bill which replaces Section 65B (Admissibility of electronic records) of Indian Evidence Act 1872 and not Section 59 (Proof of documents by primary evidence.) Mentioning Section 59 in Section 62 appears to be a discrepancy because now the definition of document as per Section of Bhartiya Sakshya Bill 2023 includes “electronic and digital records.” Hence, they can be admitted as primary evidence under Section 59. But Section 62 of Bhartiya Sakshya Bill 2023 is a special provision for the succeeding Section 63, which talks about the manner which is to be followed (“may be proved in accordance with”) for proving electronic evidence. It is Section 63 of Bhartiya Sakshya Bill 2023 which has provisions discussing in detail the manner for proving electronic evidence and not Section 59.

If Section 62 is to be considered correct, then there is no point of having Section 63 because if all electronic records may be proved in accordance with the provisions of Section 59, then what is the purpose of having Section 63 altogether? Hence, this seems to be a discrepancy which may be rectified by replacing Section 59 with Section 63 in Section 62 of the Bhartiya Sakshya Bill 2023.

V. Section 81 of BSB:

This provision was Section 81A in the Indian Evidence Act 1872, and there was no explanation in this Section. However, Section 90A (Presumption as to electronic records five year old) of Indian Evidence Act 1872 (which is now Section 93 of Bharatiya Sakshya Bill) had an explanation which was made applicable to Section 81A. The same explanation has now been removed from Section 93 of Bharatiya Sakshya Bill and now added in Section 81 and it has been made applicable to Section 93 of Bharatiya Sakshya Bill. Some words in the explanation have been changed from “and under the care of the person with whom, they naturally be;” to “and looked after by the person with whom such document is required to be kept;”.

The explanation in Section 81 has incorrectly been made applicable to Section 96 (Exclusion of evidence to explain or amend ambiguous document). It has no application there as there is no reference to any electronic record or custody of documents.

VI. Section 93 BSB

It has been mentioned in this Section that “Explanation to Section 84 shall also apply to this Section.” Section 84, however, has no explanation.

Section 93 of Bharatiya Sakshya Bill was Section 90A of Indian Evidence Act, 1872. Section 90A of Indian Evidence Act, 1872 is reproduced.

VII. Section 81 BSB

Now, Section 81A of Indian Evidence Act, 1872 had no explanation but Section 81 of Bharatiya Sakshya Bill has an explanation, which is being made applicable to Section 96 (Exclusion of evidence to explain or amend ambiguous document) of Bharatiya Sakshya Bill. This seems to be erroneous on two counts, firstly, explanation of Section 81 of Bharatiya Sakshya Bill is specifically stating that its explanation is applicable to Section 96, whereas

Section 96 has no relevance here. Section 81 needs to be rectified by replacing the word Section 96 with “Section 93.” Secondly, it is the explanation of Section 81 of Bharatiya Sakshya Bill which needs to be made applicable here and not that of Section 84, which has no explanation at all.

VIII. Section 108 BSB

There is an error in illustration (c) of Section 108. Bharatiya Nyaya Sanhita, 2023 has replaced Section 325 with Section 115 and Section 335 with Section 120. These changes should be made in the first part of illustration (c).

SOME OTHER ISSUES WORTH CONSIDERING?

I. The provision legalising marital rape has been retained.

The colonial laws did not recognise men and women as equals and merged the identity of women with their husbands. Under Section 375 of the Indian penal code deals with the offence of rape provides for an exception - ‘Sexual intercourse by man with his own wife, the wife not being under 15 years of age, is not rape.’ The Report of the 42nd Report of the Law Commission (1971) suggested removal of this exception. The Bharatiya Sakshya Bill does not make any significant changes to the ‘colonial’ Indian Evidence Act, even though the Law Commission report of 2003 had suggested so many changes in the form of amendment and substitution of provisions.

II. Section 112 of Evidence Act speaks about 'Birth during marriage conclusive proof of legitimacy except in certain cases'. It reads as follows:

"The fact that any person was born during the continuance of a valid marriage between his mother and any man, or within two hundred and eighty days after its dissolution, the mother remaining unmarried, shall be conclusive proof that he is the legitimate child of that man, unless it can be

shown that the parties to the marriage had no access to each other at any time when he could have been begotten." One must notice that there was no DNA paternity test at the time when this legal presumption got introduced in 1872. Why is that this bill which is meant to decolonize the existing law, has made no changes to the provision, apart from simply renumbering it as Section 116?

The Law Commission report had recommended an amendment to this Section:

The fact that any child was born during the continuance of a valid marriage between its mother and any man, or within two hundred and eighty days, (i) after the marriage was declared nullity, the mother remaining unmarried, or (ii) after the marriage was avoided by dissolution, the mother remaining unmarried, shall be conclusive proof that such person is the legitimate child of that man, unless (a) it can be shown that the parties to the marriage had no access to each other at any time when the child could have been begotten; or (b) *it is conclusively established, by tests conducted at the expense of that man, namely, (i) medical tests, that, at the relevant time, that man was impotent or sterile, and is not the father of the child; or (ii) blood tests conducted with the consent of that man and his wife and in the case of the child, by permission of the Court, that that man is not the father of the child; or (iii) DNA genetic printing tests conducted with the consent of that man and in the case of the child, by permission of the Court, that that man is not the father of the child.*

III. Absence of provision similar to Section 377 IPC in the Bharatiya Nyaya Sanhita- The Supreme Court in *Navtej Singh Johar* case had struck down Section 377 IPC but *only to the extent it criminalizes consensual sex*. However, Section 377 IPC can still be invoked when there is a non-consensual sex/rape of a man by another man. A woman can also initiate

proceedings against her husband for unnatural sex under Section 377 IPC. If, as per the Nyaya Sanhita, these acts are not offences, it means that the victims of sodomy, buggery etc. will have no remedy available under it. So if a man is 'raped' by another man, what is his remedy?

IV. Non-Inclusion of trans-women in definition of rape

The Sanhita also leaves the question of inclusivity answered as the provision of rape is strictly limited to a woman and does not include a transgender woman. The Transgender Persons Act, 2019 only recognizes 'sexual abuse' for which the maximum punishment is two years. The law on rape should also bring transgender woman within its purview.

V. Impact on the Digital Ecosystem- Section 94 of the Bharatiya Nagarik Suraksha Sanhita, 2023 which deals with powers to summon for evidence, explicitly includes summoning of "digital evidence," and covers any electronic communication such as messages, call recordings, and emails, as well as electronic communication devices such as mobile phones, laptops, cameras, and any other electronic device that may be specified by the government through notification in the future. A court also has the right to order search and seizure of such evidence for various reasons, including if the person in possession of the evidence is not expected to produce the same.

A mobile device or a laptop contains a lot of information which might not be relevant to the case because electronic devices in today's age contain all information pertinent to an individual's general existence. So, there's a question about the invasion of the right to privacy because of the scope of information that's in these devices. And the second thing is that collection of such devices might also go against the right to protect yourself from self-incrimination. And now with it being codified in law, it just makes it easier

for the law enforcement and for courts to justify whatever collection that they're doing.

VI. Basic Drafting and Spelling Errors

There is no Sec. 498A in BNS. But BNSS mentions it as so in the index. It should have been Section 84 instead. Explanation to Section 150 BNS (which modifies S124A IPC) does not make any sense. It is incomplete.

VIII. Illogical provisions - As per Section 101 of the BNS, when a man commits murder, punishment is life imprisonment or death. No other option. But if a group of 5+ men acting in concert commits murder on grounds mentioned in this clause, there is an option to give a punishment of 7+ years imprisonment.

IX. The provisions display an astounding ignorance of the law. For instance, as per S. 262. (1), the accused may prefer an application for discharge within a period of sixty days from the date of framing of charges.

X. No congruence between the three bills. For instance, the definition of "Document" in the Sakshya Bill and under Nyaya Sanhita. Nyaya Sanhita doesn't include electronic and digital records as Document while the amended Sakshya Bill does.

XI. In Sessions Trial court can frame charge even when accused is present by electronic means u/s 251(2) BNSS but same has NOT been provided in Magistrate triable case u/s 263 BNSS.

INPUTS FROM DOMAIN EXPERTS

I.Siddharth Luthra- Summary on ‘It’s Still Colonial’

- The existing Penal Code, which originated in 1860, is still in use in 34 countries.
- It has seen only minor amendments in India previously, such as the inclusion of laws related to sedition, cruelty to women, dowry death, and some deletions over the years.

Bharatiya Nyaya Sanhita (BNS) - The New Penal Code:

- Notable additions include the concept of community service, but it excludes the inclusion of open prisons.
- New offences like fake news terrorism, organised crime, and corruption have been added.
- However, it does not repeal the existing special laws that cover these offences.

Inconsistencies Between Codes

- While terrorism, organised crime, and corruption are addressed in the new Penal Code, the corresponding amendments needed in the Bharatiya Sakshya Sanhita (Evidence Code) are lacking.
- This omission creates inconsistencies and gaps in the legal framework.

Enhancement of Sentences:

- The new Codes enhance sentences for acts of rashness and negligence leading to death.

- This change has implications for medical professionals, potentially increasing their legal exposure.

Punishment for Mob Lynching

- The new Codes introduce punishment for mob lynching as a distinct offense.
- However, the severity of punishment for mob lynching does not align with that for murder or intentional culpable homicide.

Reorganization and Reduction of Provisions

- The new Codes reorganize provisions and reduce the number of Sections.
- This effort includes compiling definitions and updating illustrations while grouping similar provisions.
- However, these changes do not fundamentally alter the core of the 1860 Penal Code.

Sedition Repealed and Reintroduced:

- Sedition (Section 124A IPC) has been repealed but reintroduced as Section 150 in the new Bharatiya Nyaya Sanhita (BNS).
- The new provision requires an intention similar to sedition, raising concerns about freedom of speech and possible misuse against dissent.
- Questions arise about the necessity of retaining a relic from the era of monarchs in a democratic republic.

Right to Life and Liberty (Article 21):

- Article 21, protecting the right to life and liberty, is crucial in safeguarding individuals against state action.
- The 1973 Criminal Procedure Code (CPC) contains provisions related to arrest, the right to seek bail, and procedural safeguards, putting Article 21 into action.

- The new law, Bharatiya Nagarik Suraksha Sanhita (BNSS), introduces reforms like video conference trials and e-filing of FIRs but falls short in providing adequate protection to detainees.

Plea Bargaining and Custody Period:

- The plea bargaining chapter remains untouched in BNSS and is limited to sentence bargaining, missing an opportunity to allow pleading guilty to a lesser offence.
- BNSS increases police options to seek custody (PC) for 40/60 days, which curtails the right to bail.
- This contradicts the goal of breaking from the colonial past and hampers BNSS's objective of improving forensic and scientific investigations for quicker and better-quality results.
- The government should have considered reducing the 15-day PC period, as even colonial-era rules frowned upon it and discouraged obtaining confessions.

New Evidence Law (Bharatiya Sakshya Adhiniyam):

- The new evidence law updates digital and electronic evidence provisions and incorporates principles developed by courts.
- It Indianizes illustrations but doesn't bring substantial changes.

Disappointment with New Laws:

- The introduction of three new laws was expected to bring significant improvements but reiterated existing colonial-era laws.
- These new laws emphasise increased criminalization, harsher sentences, and expanded police powers, which don't align with the nation's constitutional objectives.

The Need for Comprehensive Legal Reform:

- Instead of piecemeal changes, an actual break from the colonial past should involve compiling and rationalizing central laws into substantive codes for a more efficient criminal justice system.
- This reform should consider rationalisation and decriminalisation, introducing new criminal laws where necessary, regulating arrest powers, implementing bail and sentencing guidelines, and ensuring alignment with fundamental rights and victims' rights.

Presumption of Innocence and Fair Trial:

- A break from the colonial legacy should strengthen the presumption of innocence and the right to a fair trial for the accused while protecting victims' participatory rights.

Urgency for Deep Review

- The hope lies with the Standing Committee responsible for reviewing these proposed legislations, recognising that criminal law significantly impacts everyone's daily lives.
- A thorough study is needed to ensure these laws align with the nation's constitutional principles, especially the paramount right to life and liberty established in 1950.

II. Inputs from Justice Madan B Lokur: ‘Is this a Necessary Overhauling?’

- Fails to address implementation concerns.
- IPC: 150 years and is still in existence in some form or other in about 30 countries. Evidence Act is 140 years old, CrPC is 50 years old since its revision in 1973.
- Proposed laws do not address the important issue of judicious implementation by police and prosecution. Eg: Broadening rather than curtailing of sedition laws has led to further misuse.
- *** .
- No redressal in case of errant officials where *** is unjustified.
- In case of Zero FIR, issues with its implementation persist. Eg: The events recorded in the horrific video ***.
- The legislation extends police/judicial custody from 15 to 90 days. This would put tremendous pressure and mental torture on the accused.
- Purpose of the laws is to expedite justice delivery system. This cannot be done when appointments of judges to high courts and local courts take years.

9. WHY THE RUSH ON THIS REFORM? ELECTION 2024?

The law you are passing will stay for 100 years. Let each one of us rise above narrow partisan interests. Let us create laws to better the lives of our children and our childrens’ children.

We are all for reform. Who can be against reform. But in the name of reform let us not become more repressive than the colonisers.

While there is an undeniable need to reform colonial era criminal framework,

*** Expunged as per Rule 90(7)(i) of Rules of Procedure and Conduct of Business in Rajya Sabha

the current criminal law bills are more draconian than the colonisers law-treating citizens worse than 'native subjects' of the Raj.



DEREK O'BRIEN
Member Of Parliament, Rajya Sabha
Leader, All India Trinamool Congress Parliamentary Party, Rajya Sabha

MP/2023/20

19 August, 2023

To,
Shri Brijlal,
Hon'ble Chairperson,
Parliamentary Standing Committee on Home Affairs

Subject: Request to reschedule the meeting for discussion on Criminal Law Bills in September.

Respected Chairperson,

Further to my conversation with you on the telephone this morning, I write to you concerning notice (LAFEAS-HAI2011/1/2023-Comm Sec (HA)-RSS) dated 18 August 2023. The Bharatiya Nyaya Sanhita, 2023; the Bharatiya Nagarik Suraksha Sanhita, 2023; and the Bharatiya Sakshya Bill, 2023, as introduced in Lok Sabha have been referred to the Department-related Parliamentary Standing Committee on Home Affairs for examination and report. I have just received the news that the meeting of the committee with respect to this is scheduled on the 24, 25 and 26 of August 2023. That's a few days away.

The notice given to us on the 16th August stated that a meeting will be held on 24th August 11 AM to adopt the draft report on Prison- Condition, Infrastructure and Reforms. In accordance with that and the fact that monsoon session recently ended, the Members have made multiple commitments in their constituency and other parts of their State including programs and meetings.

Sir, this is too short a notice (a few days only) for discussion of a Bill with implications of this magnitude.

Please revise the dates and schedule it in the month of September, considering that many members of the committee are present for these meetings.

Awaiting a response on the same at the earliest.

Sincerely,

Derek O'Brien

P.S. May I suggest you reschedule after the tour. Thank you again



DEREK O'BRIEN
Member Of Parliament, Rajya Sabha
Leader, All India Trinamool Congress Parliamentary Party, Rajya Sabha

MP/2023/28

11 September, 2023

To,
Shri Brijlal,
Hon'ble Chairperson,
Parliamentary Standing Committee on Home Affairs

Subject: Concerns regarding discussion on Criminal Law Bills and suggestions for way forward.

Respected Chairperson,

The first four meetings on this subject have been held. I am looking forward to attending more meetings (5th and 6th meetings) on 12 and 13 September. These are my observations and suggestions.

First, considering the significance of these three Bills, it is imperative that multiple bipartisan discussions are held at length. It is my earnest request that members of this committee are not rushed and are given multiple opportunities to express themselves. Choice of domain experts, choice of witnesses from across disciplines and the methodology used must always take into consideration the "sense of the house". In the spirit of federalism, it is imperative that the committee must also travel to multiple states to meet stakeholders. Sir, please create an atmosphere for scrutiny, debate and detailed discussion. This will embellish the quality of our output as a committee.

Second, the minutes of the meetings must be recorded with due diligence and provide a true reflection of the proceedings. Key points raised by members must reflect in the minutes. (Verbatim records are not a substitute for minutes.)



DEREK O'BRIEN
Member Of Parliament, Rajya Sabha

Leader, All India Trinamool Congress Parliamentary Party, Rajya Sabha

For example, in the meeting that was held on 24 August 2023, Dayanidhi Maran (DMK) had submitted a letter stating objections on how the titles of the said bills are in Hindi. The submission of this letter making multiple points, the summary of its contents, and his intervention does not reflect at all in the minutes of the meeting. Recording of such views is an integral part of the democratic process. Please ensure this is done for future meetings.

Third, considering that the Special Session of the Parliament has been called from 18 September to 22 September 2023, the Members have made multiple commitments in their constituencies and other parts of their State including programs and meetings immediately (one week) after the session. This is a request to schedule the next committee meeting at least one week after the session concludes.

I am sure that you will accept these concrete suggestions in the spirit that they have been made.

Sincerely,

Derek O'Brien

13 September, 2023

To,
Shri Brijlal,
Hon'ble Chairperson,
Parliamentary Standing Committee on Home Affairs

Subject: Suggested consultation methodology for the Criminal Law Bills.

Respected Chairperson,

This is with regard to the consultation methodology suggested at the meeting held on 13.09.2023 to discuss the Criminal Law Bills.

As mentioned during the meeting, general statutes of criminal law are for ages to come. These laws will affect the lives of the poor, and therefore must be crafted with utmost care. To that end, we are reproducing below for your careful consideration the organizations the Committee must consult with along with a projected timeline.

<i>Consultations to be done</i>
<p><i>1. Senior practitioners of criminal law who have domain knowledge accumulated over decades of litigation practice and expertise in the area.</i></p>
<p><i>2. Bar Council of all states in India.</i></p> <p><i>(At least 23 state bar councils)</i></p> <p><i>(30 days)</i></p>
<p><i>3. The judges of the Supreme Court and High Courts.</i></p> <p>(Supreme Court- Chief Justice and 33 other Judges appointed by the President of India. High Court- Working Strength of at least 785 judges across 25 high courts)</p> <p><i>(6 months)</i></p>

4. *The Bar Council of India Supreme Court Bar associations*

(At least 20 office bearers)

(20days)

5. *Members of parliament, legislative assemblies, and local councils play a role in passing laws. Their input can help ensure that proposed reforms align with legislative goals.*

(Lok Sabha - 539 members +

Rajya Sabha- 238 members +

State legislative assemblies)

(6 months)

6. *International Organizations:* Collaboration with international bodies like the United Nations and others can help align reforms with international standards and best practices. *(100 days)*

7. *Media:* Journalists and media organizations can play a role in raising public awareness about the need for criminal justice reform and can provide insights into public sentiment. *(100 days)*

8. *Ethnic and Religious Leaders:* Considering the diverse cultural and religious landscape of India, involving leaders from various communities can help ensure that reforms are sensitive to different perspectives. *(50 days)*

9. *Experts on Juvenile Justice:* Specialists in juvenile justice can provide insights into how reforms could better address the needs and rights of young offenders. *(5 days)*

10. *Experts on Cybercrime and Technology:* Given the rise of cybercrime, involving experts in technology and cyber law is crucial when considering reforms in this domain. *(5 days)*

<p><i>11. Prison Officials and Reform Advocates:</i> Individuals working within the prison system and advocates for prison reform can contribute perspectives on conditions, rehabilitation, and the treatment of inmates. (1319 prisons in the country and their officials) (4 months)</p>
<p><i>12. Inclusive Consultation from the general public</i> including women, Dalits, religious minorities, adivasis, LGBTQ persons, or persons with disabilities etc. (1 month)</p>
<p><i>13. Governors, chief ministers of states, lieutenant governors and administrators of Union territories.</i> (60-70 officials approx.) (1 month)</p>
<p><i>14. Legal Scholars and academic institutes</i> (5 days)</p>
<p><i>15. Law Enforcement Agencies:</i> Representatives from police departments can offer insights into issues related to investigation, evidence collection, and law enforcement procedures. (10 days)</p>
<p><i>16. Human Rights Organizations:</i> NGOs and advocacy groups focused on human rights can provide critical perspectives on how proposed reforms might impact human rights, due process, and individual freedoms. (5 days)</p>
<p><i>A total of 1.5 years</i></p>

We are sure that you will accept these concrete suggestions in the spirit that they have been made.

Sincerely,



P. Chidambaram



Derek O'Brien

14 September, 2023

To,
Shri Brijlal,
Hon'ble Chairperson,
Parliamentary Standing Committee on Home Affairs

Subject: Suggested witnesses for consultation on the Criminal Law Bills.

Respected Chairperson,

Further to our letter dated September 13, 2023, and the interventions made during the Committee meeting held on the same day, we are reproducing below for your careful consideration the witnesses the Committee must call as experts for consultation.

As mentioned during the meeting, general statutes of criminal law are for ages to come. These laws will affect the lives of the poor, and therefore must be crafted with utmost care.

1. Former CJI U.U.Lalit

He was designated Senior Advocate at the Supreme Court in April 2004. He aided the Court as an *amicus curiae* in many important matters pertaining to forests, vehicular pollution and pollution of the Yamuna river. In 2011, he was appointed as the Special Public Prosecutor in the 2G Spectrum scam case. He also served as the 49th Chief Justice of India.

2. Justice Madan Lokur

He was appointed as Additional Solicitor General of India in 1998 . Functioned as Chief Justice of Gauhati High Court from 2010 to 2011, and Chief Justice of High Court of Andhra Pradesh from 2011 to 2012. Has vast experience in Civil, Criminal, Constitutional, Revenue and Service laws.

3. Fali Nariman

Fali Sam Nariman is an Indian jurist. He is a senior advocate to the Supreme Court of India since 1971 and was the President of the Bar Association of India from 1991 to 2010.

4. Adv. Maneka Guruswamy

Maneka Guruswamy is a senior advocate at the Supreme Court of India. She is known for having played a significant role in many landmark cases before the Supreme Court, including the Section 377 case, the bureaucratic reforms case, the Agustawestland bribery case, the Salwa Judum case, and the Right to Education case.

5. Sr. Adv. Sidharth Luthra:

Advocate Sidarth Luthra is a Senior Advocate at the Supreme Court. He was appointed the Additional Solicitor General of the Supreme from 2012-2014, during which he represented Union and State Governments in matters such as fundamental rights, environment laws, electoral reform, criminal law, juvenile rights, education and policy issues. Mr Luthra also appeared as the Special Public Prosecutor for the State of NCT of Delhi in the Nirbhaya gang-rape case.

6. Sr. Adv. Hariharan

Hariharan N enrolled at the Delhi Bar in 1987 and over the last 34 years, has cemented a presence on the Criminal side of legal practice. For contributions to the practice and development of Criminal Law, he was designated as a Senior Advocate by the Delhi High Court in 2013.

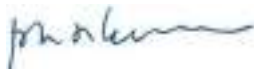
7. Sr. Adv. Rebecca John

Rebecca Mammen John has been practicing exclusively on the criminal side in the Supreme Court of India, High Court of Delhi and in the Trial Courts of Delhi for more than three decades. She has conducted a wide range of criminal trials and argued appeals dealing with offenses under the Indian Penal Code, Unlawful Activities (Prevention) Act, Prevention of Corruption Act and other special statutes.

8. Dr. Sylendra Babu
9. Sr. Adv. Amit Desai
10. Sr. Adv. Rajeev Dhavan
11. Sr. Adv. Siddharth Dave
12. Adit Pujari
13. Sr. Adv. Aditya Sondhi
14. N. Dinakar
15. Justice R. Balasubramaniam
16. Sr. Adv. Vrinda Grover
17. Sr. Adv. Meenakshi Arora

We are sure that you will accept these concrete suggestions in the spirit that they have been made.

Sincerely,



P. Chidambaram



Derek O'Brien



D E R E K O ' B R I E N

Member of Parliament, Rajya Sabha

Leader, All India Trinamool Congress Parliamentary Party, Rajya Sabha

MP/2023/33

22 September 2023

To,
Shri Brijlal,
Hon'ble Chairperson,
Parliamentary Standing Committee on Home Affairs

Respected Chairperson,

With reference to your letter **D.O. No.-IMP/DLI/BL/RS/2023/397** dated 15th September 2023 please note the following:

1. The stakeholders that you wrote to, comprise a very small part of the list of stakeholders we suggested. As mentioned during the meeting, these statutes of criminal law are for ages to come. These laws will affect the lives of the poor, and therefore must be crafted with utmost care. Hence, I reiterate what I said in the last letter.
2. The minutes of the meeting, although a summary, should provide a true reflection of the proceedings. The point that Mr Dayanidhi Maran made was a very important one. A summary must at least reflect the most important points made during the meeting in order to safeguard the health of the democratic process.

Sincerely,

Derek O'Brien



D E R E K O ' B R I E N

Member of Parliament, Rajya Sabha

Leader, All India Trinamool Congress Parliamentary Party, Rajya Sabha

MP/2023/34

27 September 2023

To,
Shri Brijlal,
Hon'ble Chairperson,
Parliamentary Standing Committee on Home Affairs

Subject: Concerns regarding rushing the scrutiny of Criminal Law Bills.

Respected Chairperson,

I am writing to you regarding your letter **IMP/DLI/BL/RS/2023/407** dated 23rd September 2023 and Committee Notice **LAFEAS-HA12011/2/2023- Comm Sec (HA)-RSS** dated 25th September 2023. I am once again compelled to express my concerns regarding the discussion on Criminal Laws under consideration in this Committee. The methodology of the deliberations leaves a lot to be desired. Many issues are still unaddressed.

One cannot ignore the *** and the rushed nature of this process of consideration of Bills.

The Committee which recommended these reforms, Prof. Ranbir Singh Committee, was constituted of only men from similar social identities as well as professional backgrounds and experiences. This makes it even more important to consult a diverse group of stakeholders. It is imperative that we expand the pool of witnesses who come and present their views to the Committee.

*** Expunged as per Rule 90(7)(i) of Rules of Procedure and Conduct of Business in Rajya Sabha

Leaving out important stakeholders from the conversation undermines the legitimacy of the process. It is our responsibility to ensure that any new law is well-reasoned, well-informed, and thoroughly debated to prevent any unintended negative consequences.

The Committee should reconsider the approach to this discussion and take the necessary steps to ensure that the Bill undergoes proper consultation and scrutiny. It is in the best interest of our democracy.

I am enclosing once again for your perusal a list of people who should be called as witnesses. They have impeccable credentials. The Committee will benefit from their wise counsel and insights. I once again urge you to invite those mentioned in the list (enclosed once again) to share their expert opinions in the future.

Awaiting a response on the same at the earliest.

Sincerely,



Derek O'Brien

Enclosed: As above

Consultations to be done

1. *Senior practitioners of criminal law who have domain knowledge accumulated over decades of litigation practice and expertise in the area.*

2. *Bar Council of all states in India.*
(At least 23 state bar councils)

3. *The judges of the Supreme Court and High Courts.*

(Supreme Court- Chief Justice and 33 other Judges appointed by the President of India. High Court- Working Strength of at least 785 judges across 25 high courts)

4. *The Bar Council of India Supreme Court Bar associations*

(At least 20 office bearers)

5. *Members of parliament, legislative assemblies, and local councils play a role in passing laws. Their input can help ensure that proposed reforms align with legislative goals.*

(Lok Sabha - 539 members+ Rajya Sabha- 238 members+ State legislative assemblies)

6. *International Organizations:* Collaboration with international bodies like the United Nations and others can help align reforms with international standards and best practices.

7. *Media:* Journalists and media organizations can play a role in raising public awareness about the need for criminal justice reform and can provide insights into public sentiment.

8. *Ethnic and Religious Leaders:* Considering the diverse cultural and religious landscape of India, involving leaders from various communities can help ensure that reforms are sensitive to different perspectives.

9. *Experts on Juvenile Justice:* Specialists in juvenile justice can provide insights into how reforms could better address the needs and rights of young offenders.

10. *Experts on Cybercrime and Technology:* Given the rise of cybercrime, involving experts in technology and cyber law is crucial when considering reforms in this domain.

11. *Prison Officials and Reform Advocates:* Individuals working within the prison system and advocates for prison reform can contribute perspectives on conditions, rehabilitation, and the treatment of inmates. (1319 prisons in the country and their officials)

12. *Inclusive Consultation from the general public* including women, Dalits, religious minorities, adivasis, LGBTQ persons, or persons with disabilities etc.

13. *Governors, chief ministers of states, lieutenant governors and administrators of Union territories.* (60-70 officials approx.)

14. *Legal Scholars and academic institutes.*

15. *Law Enforcement Agencies:* Representatives from police departments can offer insights into issues related to investigation, evidence collection, and law enforcement procedures.

16. *Human Rights Organizations:* NGOs and advocacy groups focused on human rights can provide critical perspectives on how proposed reforms might impact human rights, due process, and individual freedoms.

Additional recommendations:

1. Former CJI U.U.Lalit

He was designated Senior Advocate at the Supreme Court in April 2004. He aided the Court as an *amicus curiae* in many important matters pertaining to forests, vehicular pollution and pollution of the Yamuna river. In 2011, he was appointed as the Special Public Prosecutor in the 2G Spectrum scam case. He also served as the 49th Chief Justice of India.

2. Justice Madan Lokur

He was appointed as Additional Solicitor General of India in 1998 . Functioned as Chief Justice of Gauhati High Court from 2010 to 2011, and Chief Justice of High Court of Andhra Pradesh from 2011 to 2012. Has vast experience in Civil, Criminal, Constitutional, Revenue and Service laws.

3. Fali Nariman

Fali Sam Nariman is an Indian jurist. He is a senior advocate to the Supreme Court of India since 1971 and was the President of the Bar Association of India from 1991 to 2010.

4. Adv. Menaka Guruswamy

Menaka Guruswamy is a senior advocate at the Supreme Court of India. She is known for having played a significant role in many landmark cases before the Supreme Court, including the Section 377 case, the bureaucratic reforms case, the Agustawestland bribery case, the Salwa Judum case, and the Right to Education case.

5. Sr. Adv. Sidharth Luthra:

Advocate Sidarth Luthra is a Senior Advocate at the Supreme Court. He was appointed the Additional Solicitor General of the Supreme from 2012-2014, during which he represented Union and State Governments in matters such as fundamental rights, environment laws, electoral reform, criminal law, juvenile rights, education and policy issues. Mr Luthra also appeared as the Special Public Prosecutor for the State of NCT of Delhi in the Nirbhaya gang-rape case.

6. Sr. Adv. Hariharan

Hariharan N enrolled at the Delhi Bar in 1987 and over the last 34 years, has cemented a presence on the Criminal side of legal practice. For contributions to the practice and development of Criminal Law, he was designated as a Senior Advocate by the Delhi High Court in 2013.

7. Sr. Adv. Rebecca John

Rebecca Mammen John has been practicing exclusively on the criminal side in the Supreme Court of India, High Court of Delhi and in the Trial Courts of Delhi for more than three decades. She has conducted a wide range of criminal trials and argued appeals dealing with offenses under the Indian Penal Code, Unlawful Activities (Prevention) Act, Prevention of Corruption Act and other special statutes.

8. Dr. Sylendra Babu
9. Sr. Adv. Amit Desai
10. Sr. Adv. Rajeev Dhavan
11. Sr. Adv. Siddharth Dave
12. Adit Pujari
13. Sr. Adv. Aditya Sondhi
14. N. Dinakar
15. Justice R. Balasubramaniam
16. Sr. Adv. Vrinda Grover
17. Sr. Adv. Meenakshi Arora

**DEREK O'BRIEN**

Member of Parliament, Rajya Sabha

Leader, All India Trinamool Congress Parliamentary Party, Rajya Sabha

MP/2023/35

3 October 2023

**To,
Shri Brijlal,
Hon'ble Chairperson,
Parliamentary Standing Committee on Home Affairs**

Respected Chairperson,

I am writing to you regarding the Notice [LAFEAS-HA12011/2/2023- Comm Sec (HA)- RSS] from the Committee dated 25th September 2023 calling for a clause-by-clause discussion on the Criminal Law Bills.

First, *** and the rushed nature of this process of consideration of Bills. The Committee which recommended these reforms, Prof. Ranbir Singh Committee, was constituted of only men from similar social identities as well as professional backgrounds and experiences. Leaving out important stakeholders from the conversation undermines the legitimacy of the process. It is our responsibility to ensure that any new law is well-reasoned, well-informed, and thoroughly debated to prevent any unintended negative consequences.

Second, it is imperative that every member of the committee contributes to the discussion for a comprehensive deliberation. Only some members have voiced their opinions. The members who have spoken haven't been able to express their views. Proceeding to clause-by-clause amendments would be premature and counterproductive. A fruitful discussion requires the active participation of all committee members so that diverse perspectives are considered before making informed decisions. The essence of a committee lies in collaborative efforts, and only through the thoughtful contributions of each member can we achieve the purpose and effectiveness of our committee deliberations.

Considering the significance of these three Bills, it is imperative that multiple bipartisan discussions are held at length. I earnestly request that members of this committee are not rushed and are given multiple opportunities to express themselves.

Due to the above-mentioned reasons, a clause-by-clause discussion is out of question till we thoroughly consult the stakeholders and members are given ample opportunity to express their views on the same. I request that the consultation process is not rushed and more time be granted for discussions and stakeholder consultations. Please consider pushing the date of the clause-by-clause amendment discussion.

Awaiting a response on the same at the earliest.

Sincerely,

A handwritten signature in blue ink, appearing to read "Derek O'Brien", with a long horizontal flourish extending to the right.

Derek O'Brien



DEREK O'BRIEN
Member Of Parliament, Rajya Sabha
Leader, All India Trinamool Congress Parliamentary Party, Rajya Sabha

MP/2023/42

23 October 2023

To,
Shri Brijlal,
Hon'ble Chairperson,
Parliamentary Standing Committee on Home Affairs

Respected Chairperson,

With reference to Home Affairs Committee Notice LAFEAS-HA12011/2/2023- Comm Sec (HA)- RSS dated 20 October 2023 regarding the consideration and adoption of draft Reports on Criminal Law Bills on 27 October 2023. In my earlier letters to you, I have flagged the undue haste and *** of these Bills without due diligence and meaningful scrutiny by this Committee. In the last few months this has become a trend.

*** adoption of such an important report will have negative implications and will turn out counterproductive. Hastily rushing through the process is not doing justice to this important proposed legislation.

Allow me to elucidate.

1. The Draft reports were only sent about 8.30 pm on 21 October 2023. Which leaves only 5 days to read and analyse the three reports. This is too short a notice for discussion of a Bill with implications of this magnitude. There are so many drafting errors pointed out by my colleagues Shri N. R. Elango and Shri P. Chidambaram.
2. *** and rush in the nature of this process of consideration of Bills. The laws that are being examined are going to last over 100 years and such a hasty adoption of the reports without consultation of stakeholders would be premature and counterproductive. I am enclosing once again for your perusal a list of people who should be called as witnesses. They have impeccable credentials. The Committee will benefit from their wise counsel and insights. I once again urge you to invite those mentioned in the list (enclosed once again) to share their expert opinions in the future.

Page 1 of 2

*** Expunged as per Rule 90(7)(i) of Rules of Procedure and Conduct of Business in Rajya Sabha

3. Members of this Committee have made multiple commitments in their constituencies during the festive season. In Bengal, much is lined up on 27 and 28 October. The United Nations Educational, Scientific and Cultural Organization (UNESCO) has included Kolkata's famous Durga Puja in its Intangible Cultural Heritage of Humanity list (ICH). The carnival is on the 27 October and Lakshmi Pujo is on the 28 October, for which the preparations start at least a day in advance. ***

Respected Chairperson, I humbly urge you not to hurriedly rush through this legislation. We will be doing a grave disservice to a large section of the population, especially those who are marginalised or economically challenged. This consultative process needs us to rise above narrow partisan interest or short term electoral stunts. Kindly assess all this in the interest of 140 crore Indians who look up to Parliament to legislate with wisdom.

Awaiting a response on the same at the earliest.

Sincerely,



Derek O'Brien

Leader, AITC Parliamentary Party, Rajya Sabha

Enclosed: As Above

Consultations to be done

1. Senior practitioners of criminal law who have domain knowledge accumulated over decades of litigation practice and expertise in the area.
2. Bar Council of all states in India. (At least 23 state bar councils)
3. The judges of the Supreme Court and High Courts.

(Supreme Court- Chief Justice and 33 other Judges appointed by the President of India.
High Court- Working Strength of at least 785 judges across 25 high courts)

4. The Bar Council of India Supreme Court Bar associations (At least 20 office bearers)
5. Members of parliament, legislative assemblies, and local councils play a role in passing laws. Their input can help ensure that proposed reforms align with legislative goals.

(Lok Sabha - 539 members + Rajya Sabha- 238 members + State legislative assemblies)

6. International Organizations: Collaboration with international bodies like the United Nations and others can help align reforms with international standards and best practices.
7. Media: Journalists and media organizations can play a role in raising public awareness about the need for criminal justice reform and can provide insights into public sentiment.
8. Ethnic and Religious Leaders: Considering the diverse cultural and religious landscape of India, involving leaders from various communities can help ensure that reforms are sensitive to different perspectives.
9. Experts on Juvenile Justice: Specialists in juvenile justice can provide insights into how reforms could better address the needs and rights of young offenders.
10. Experts on Cybercrime and Technology: Given the rise of cybercrime, involving experts in technology and cyber law is crucial when considering reforms in this domain.
11. Prison Officials and Reform Advocates: Individuals working within the prison system and advocates for prison reform can contribute perspectives on conditions, rehabilitation, and the treatment of inmates. (1319 prisons in the country and their officials)
12. Inclusive Consultation from the general public including women, Dalits, religious minorities, adivasis, LGBTQ persons, or persons with disabilities etc.
13. Governors, chief ministers of states, lieutenant governors and administrators of Union territories. (60-70 officials approx.)
14. Legal Scholars and academic institutes.

15. Law Enforcement Agencies: Representatives from police departments can offer insights into issues related to investigation, evidence collection, and law enforcement procedures.

16. Human Rights Organizations: NGOs and advocacy groups focused on human rights can provide critical perspectives on how proposed reforms might impact human rights, due process, and individual freedoms.

Additional recommendations:

1. Former CJI U.U.Lalit

He was designated Senior Advocate at the Supreme Court in April 2004. He aided the Court as an amicus curiae in many important matters pertaining to forests, vehicular pollution and pollution of the Yamuna river. In 2011, he was appointed as the Special Public Prosecutor in the 2G Spectrum scam case. He also served as the 49th Chief Justice of India.

2. Justice Madan Lokur

He was appointed as Additional Solicitor General of India in 1998. Functioned as Chief Justice of Gauhati High Court from 2010 to 2011, and Chief Justice of High Court of Andhra Pradesh from 2011 to 2012. Has vast experience in Civil, Criminal, Constitutional, Revenue and Service laws.

3. Fali Nariman

Fali Sam Nariman is an Indian jurist. He is a senior advocate to the Supreme Court of India since 1971 and was the President of the Bar Association of India from 1991 to 2010.

4. Adv. Menaka Guruswamy

Menaka Guruswamy is a senior advocate at the Supreme Court of India. She is known for having played a significant role in many landmark cases before the Supreme Court, including the Section 377 case, the bureaucratic reforms case, the AgustaWestland bribery case, the Salwa Judum case, and the Right to Education case.

5. Sr. Adv. Sidharth Luthra:

Advocate Sidarth Luthra is a Senior Advocate at the Supreme Court. He was appointed the Additional Solicitor General of the Supreme from 2012-2014, during which he represented Union and State Governments in matters such as fundamental rights, environment laws, electoral reform, criminal law, juvenile rights, education and policy issues. Mr Luthra also appeared as the Special Public Prosecutor for the State of NCT of Delhi in the Nirbhaya gang-rape case.

6. Sr. Adv. Hariharan

Hariharan N enrolled at the Delhi Bar in 1987 and over the last 34 years, has cemented a presence on the Criminal side of legal practice. For contributions to the practice and development of Criminal Law, he was designated as a Senior Advocate by the Delhi High Court in 2013.

7. Sr. Adv. Rebecca John

Rebecca Mammen John has been practicing exclusively on the criminal side in the Supreme Court of India, High Court of Delhi and in the Trial Courts of Delhi for more than three decades. She has conducted a wide range of criminal trials and argued appeals dealing with offenses under the Indian Penal Code, Unlawful Activities (Prevention) Act, Prevention of Corruption Act and other special statutes.

8. Dr. Sylendra Babu

9. Sr. Adv. Amit Desai

10. Sr. Adv. Rajeev Dhavan

11. Sr. Adv. Siddharth Dave

12. Adit Pujari

13. Sr. Adv. Aditya Sondhi

14. N. Dinakar

15. Justice R.Balasubramaniam

16. Sr. Adv. Vrinda Grover

17. Sr. Adv. Meenakshi Arora



D EREK O ' B RIEN

Member of Parliament, Rajya Sabha
Leader, All India Trinamool Congress Parliamentary Party, Rajya Sabha

MP/2023/44

30 October, 2023

To,
Shri Brij Lal,
Hon'ble Chairperson,
Parliamentary Standing Committee on Home Affairs

Respected Chairperson,

I recently received a memorandum from the Indian Police Foundation, accompanied by their comprehensive clause-by-clause analysis of the recently proposed three Criminal Law bills. It is imperative that we pay heed to their views and engage them in the ongoing discussions, as inputs from domain experts are essential for bills of such profound significance.

The Indian Police Foundation (IPF), renowned for its expertise in police reform and policing standards, should be called upon to participate in the stakeholder consultation for these bills. IPF conducts comprehensive research, offers capacity building, and actively engages in policy advocacy, all centered around advancing policing standards and contributing to the enhancement of law enforcement practices. The foundation is overseen by a coalition of progressive police professionals and engaged citizen stakeholders, all of whom recognise the potential for positive transformation within the Indian Police. Their board comprises eminent members, including active and retired police officers and civil servants.

I strongly recommend that IPF be called for a consultation in early November. Their participation will provide invaluable insights and ensure a thorough examination of these bills.

Sincerely,

Derek O'Brien

P.S. We have hardly called any stakeholders to testify. Please refer to my earlier letters. For the sake of the millions of marginalised who these bills will affect, please do not rush this bill.

November 8, 2023

To,
Shri Brij Lal,
Hon'ble Chairperson,
Parliamentary Standing Committee on Home Affairs

Subject: Note of Dissent on Bharatiya Nyaya Sanhita, 2023, and Bharatiya Nagrik
Suraksha Sanhita, 2023

Respected Chairperson,

I write to express my strong dissent regarding the proposed bills, namely Bharatiya Nyaya Sanhita, 2023, and Bharatiya Nagrik Suraksha Sanhita, 2023, currently under deliberation by the Departmentally Related Standing Committee on Home Affairs. My concerns are as follows:

I. NO NEED FOR NEW BILLS WHICH ARE 93% COPY PASTE LEGISLATION

The introduction of new legislation *** raises concerns about the efficient use of legislative resources. The bills mostly mirror existing criminal laws, making it more sensible to amend them instead.

II. * COMMITTEE PROCEDURE AND AVOIDING QUALITY STAKEHOLDER CONSULTATION**

Moreover, the drafting process lacks inclusive stakeholder consultations, which are crucial for legislation of this magnitude. The committee responsible for reviewing these laws lacks diversity, excluding representation from marginalized groups.

III. LIMITING THE MEANINGFUL PARTICIPATION OF THE OPPOSITION.

The *** scheduling of discussions during the festive season, ***, restricts meaningful opposition participation. Adequate scrutiny and debate are indispensable for such consequential legislation. *** with far-reaching implications is insufficient and disconcerting. Rushed passage may result in unintended consequences and public dissatisfaction.

IV. RESULT OF RUSHING AND *- NUMEROUS DRAFTING ERRORS**

*** Expunged as per Rule 90(7)(i) of Rules of Procedure and Conduct of Business in Rajya Sabha

Basic drafting errors have been identified, necessitating comprehensive revisions. The hurried nature of the legislation leaves minimal room for addressing these concerns, imperilling the clarity and effectiveness

These bills *** for new legislation, inclusive stakeholder consultations, meaningful opposition participation, and transparency in the legislative process. Rushing their adoption may lead to unintended consequences and public dissatisfaction. *** and ensure that our legislative process is thorough, transparent, and representative of all stakeholders.

V. NAMES OF THESE BILLS SHOULD BE IN ENGLISH AS WELL AS HINDI.

The bills in question have names in Hindi. This is seen as not just Hindi imposition but also unconstitutional, as Article 348 of the Constitution specifically mandates the use of the English language in Acts and Bills. However, a report maintains that the use of Hindi names for bills is constitutional and even suggests expanding the use of Hindi in these contexts, which seemingly contradicts the constitutional provision.

VI. CRITIQUE OF SEDITION LAW-BNS

Regarding the Sedition Law, the report commends the government for rephrasing it while supposedly safeguarding state security. However, the law has been retained with a broader definition that can encompass a wide range of actions under the pretext of endangering India's unity and integrity. This expansion of the law provides authorities with significant discretion, contrary to the recommendation of the 22nd Law Commission, which called for a well-defined sedition law. The Bharatiya Nyaya Sanhita, 2023, specifically Clause 150, deals with acts that endanger the sovereignty, unity, and integrity of India, indicating the broad scope of the revised sedition law.

***. Simply delaying it by a day or a week won't solve our problem. ***. Pushing the committee's work forward hastily would be a severe detriment to the legislative process. What we truly need is an extension of no less than three months, making the new deadline March 2024 an absolute necessity.

VII. DEATH PENALTY PROVISIONS

The statistics provided by Project 39A reveal troubling disparities in the application of the death penalty in India, with a significant majority of death row inmates coming from economically disadvantaged backgrounds, lacking proper education, and belonging to marginalized communities. This data underscores the urgent need for re-evaluating the death penalty in the country. Such re-evaluation is a means to rectify these social injustices, prevent potential wrongful convictions, and promote principles of justice and human rights. A more humane approach to addressing crime, focusing on rehabilitation and reintegration, is necessary, as many other countries have already done. The disparities between trial courts and the Supreme Court, as well as the increasing scepticism surrounding death row trials, highlight the need for institutional reform in the criminal justice system. In sum, broad-based social discussions are warranted on the subject.

VIII. 90-DAY POLICE CUSTODY

The Bill permits the magistrate to authorise detention in police custody for a period beyond the current 15-day limit, extending up to 90 days.

90-day police custody - for crimes that carry a sentence of ten years or more

60-day police custody - for "any other offence" with imprisonment terms less than the 90-day detention offences

Increasing the period of police custody without proper safeguards could lead to human rights violations, including the risk of torture, coerced confessions, and abuse of detainees. This is particularly concerning given the history of custodial violence and abuse in India.

I firmly believe that these issues deserve our utmost attention and consideration. In hope that the principles of justice and constitution will prevail in shaping the future of our legislative endeavours, I express my dissent.

Sincerely,



Dr Kakoli Ghosh Dastidar
(Member of Parliament, Lok Sabha)

DAYANIDHI MARAN

Member of Parliament, Lok Sabha
Chennai Central Constituency



3, First Avenue,
Boat Club,
R.A. Puram, Chennai - 600 028.
Ph : (044) 2437 1515
E_mail : dmaranoffice@gmail.com

07.11.2023

Dear Chairman, Vanakkam!

Subject **Dissent Note on Draft 246th Report on The Bharatiya Nyaya Sanhita Bill 2023, 247th report on The Bharatiya Nagarika Suraksha Sanhita Bill, 2023, 248th report on The Bharatiya Sakshaya Bill, 2023**

Through my letters dt. 26.10.2023 & 23.08.2023 to the Chairman & members of the Department Related Parliamentary Standing Committee on Home Affairs, I had apprised the Committee as to how the titles of The Bharatiya Nyaya Sanhita Bill, 2023; The Bharatiya Nagarika Suraksha Sanhita Bill, 2023 and The Bharatiya Sakshaya Bill, 2023 are violative of Article 348 of the Constitution and that the clauses of these three Bills need extensive consultation with all the stakeholders such as the State Governments, Judges, Police Authorities, Bar Council of India, State Bar Councils, Advocate Association, Bar Associations, Senior Advocates, Advocates, Women Lawyers' Association, Eminent Jurists, Academicians etc. Furthermore, I had submitted my objections highlighting that we have a golden opportunity in our hands to conduct an effective exercise in bringing changes to our criminal justice delivery system as The Indian Penal Code, 1860, The Code of Criminal Procedure, 1973, The Indian Evidence Act, 1872 were largely untouched before. While examining the above three Bills, it must be considered whether we can amend the existing Bills either by deleting or incorporating new provisions thereby bringing actual reforms to make the criminal justice delivery system more efficient and user friendly instead of thrusting old wine in a new bottle.

However, I am deeply saddened by the fact that *** . There is no specific reason stated so as to justify the non-consideration of the recommendations/suggestions made by the stakeholders.

DAYANIDHI MARAN

Member of Parliament, Lok Sabha
Chennai Central Constituency



3, First Avenue,
Boat Club,
R.A. Puram, Chennai - 600 028.
Ph : (044) 2437 1515
E_mail : dmaranoffice@gmail.com

These Bills will further change the federal relationship and structure between the Union and the State. As you are aware, India is a Union of States - states which speak different languages i.e., languages other than Hindi. On the other hand, except for a few words, the body of these Bills is in English, but the title of the Bill is in Hindi which is violative of Article 348. The Article 348 of the Constitution puts a complete embargo on a Bill having any other language in its text other than English. Therefore, the titles of the Bills ought to be changed to their English translation. The usage of a Sanskrit / Hindi title and words in some clauses is imposition of Sanskrit (a language used by less than 10,000 people as per the 2011 census) and Hindi on non-Hindi speaking states. I make it clear that we are not opposed to Hindi, but we are opposed to imposition of Hindi on non-Hindi speaking states. If these bills turn into Act's, the people in non-Hindi speaking states will find difficulty in pronouncing and handling these Acts. At the grass root level they will not be able to understand the texture, character, tenor, and nature of the act if the title remains in Hindi and implementation will be very difficult including filing of FIR's.

Therefore, I humbly request you to change the titles from Sanskrit / Hindi to English translations for The Bharatiya Nyaya Sanhita Bill, 2023; The Bharatiya Nagarika Suraksha Sanhita Bill, 2023 and The Bharatiya Sakshya Bill, 2023 and to consider revising the contents of the bills to bring about the much needed reforms in our laws, instead of the mere superficial attempt of this bill.

Thanking you,

Yours sincerely,

(Dayanidhi Maran)

Member, Parliamentary Standing Committee on Home Affairs

To
Shri. Brij Lal,
The Hon'ble Chairman,
The Department Related Parliamentary Standing Committee on Home Affairs
C-1/9, Pandara Park,
New Delhi - 110 003



सत्यमेव जयते

P. Chidambaram
Member of Parliament (RS)
Former Union Finance Minister

08 November 2023

The Chairman
Standing Committee on Home Affairs
Parliament House
New Delhi

Dear Mr Chairman,

Bills No. 121, 122 and 123 of 2023

I enclose my Note of Dissent to each of the three Bills (total 3 notes).

Kindly acknowledge receipt.

With regards,

Yours sincerely,

P. Chidambaram MP (RS)

✓ copy to:
Joint Secretary
Rajya Sabha Secretariat
Parliament House
New Delhi

DISSENT NOTE SUBMITTED BY P CHIDAMBARAM

At the outset, I wish to register three fundamental objections to the three Bills:

(i) Under Article 348 of the Constitution, all Acts shall be in the English language which is also the language of the Supreme Court and the High Courts. Laws are, and will be, translated into other Indian languages. It is therefore correct that the three Bills, first drafted in English, have been translated into Hindi. In due course, the Bills will be translated into other Indian languages and such translated Bills will be used in the proceeding before the Courts subordinate to the High Courts. The name of the Bill must, therefore, be in English and translated into Hindi and also translated into other Indian languages. To have a *Hindi only* name to the Bill - irrespective of the language of the Bill is highly objectionable, unconstitutional, an affront to the non-Hindi speaking people (e.g. Tamils, Gujaratis or Bengalis) and opposed to federalism.

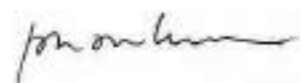
(ii) The three Bills are largely a *copy and paste* of the existing Laws. There was absolutely no need to draft so-called new Bills. All that the Bills have done is to make a few amendments (some acceptable, some not acceptable), re-arrange the sections of the existing Laws, and merge different sections into one section with many sub-sections. This is a wasteful exercise that will have many undesirable consequences. To locate a familiar section - e.g. Section 302 of IPC, punishment for murder - one has to search the Bill and find the equivalent Clause 101. Hundreds of thousands of judges, lawyers, police officers -and even the general public - will be put to enormous trouble and inconvenience without any benefit at all. They will have to "re-learn" the laws which will take years before the new provisions are used extensively. This seems to be an exercise in self-glorification rather than a scholarly exercise to improve the laws.

(iii) *** . Besides, State governments, Bar Associations, State and Central Police organizations, the Indian Police Foundation, the National Law School Universities, judges of the subordinate judiciary who apply the laws every day, eminent retired judges of the Supreme Court and the High Courts, eminent senior advocates and legal scholars were not consulted at the consideration stage by circulating the draft Bills and inviting them to comment. ***. We strongly object to the process followed on the grounds of insufficiency, non- inclusionary, non-scholarly and lack of adequate time for consideration by the Members.

Bill to replace the Indian Penal Code (Bill No 121 of 2023)

Part A

1. The Indian Penal Code has 25 chapters (23+3) containing 511 sections. Of these,



Chapters XIX, XXA and XXIII contain only one section each. Of the remaining 23 Chapters, as many as 18 Chapters have been *copied and pasted* in the new Bill. Chapter II of the IPC containing the definitions has been *copied and pasted* as one Section with many clauses. The Rep01i has acknowledged that, in terms of quantitative changes, 24 sections have been deleted and 22 sections have been added. Effectively, the new Bill is a *copy and paste* exercise of nearly 90-95 per cent of the IPC, which is why I reject the Bill as a wasteful exercise that will cause enormous inconvenience, with no benefit at all, to the hundreds of thousands of stakeholders that I had referred to. The few "improvements" could have been easily incorporated with amendments to the IPC.

2. The Statement of Objects and Reasons has nothing that could not have been done through a few amendments to the IPC. The Notes on Clauses are amusing: they explain nothing. This part is simply a summary of the text of the Clauses (which were, anyway, copied and pasted) and adds nothing to our understanding.

Part B

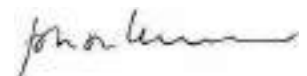
3. Let me list my main objections to the Bill and the draft Report:

(i) Death penalty should be abolished. According to the data, the Supreme Court has affirmed the death penalty in only 7 cases in the last 6 years. While the imposition of the penalty itself causes distress and trauma, the wait before the sentence is set aside or confirmed causes distress many times more. It has been established that death penalty is no deterrent to serious crime. An imprisonment for the remainder of natural life without parole is, in fact, a more rigorous punishment and also opens a window of opportunity for the convict to reform.

(ii) Adultery should not be a crime. It is an offence against marriage which is a compact between two persons; if the compact is broken, the aggrieved spouse may sue for divorce or civil damages. To raise marriage to the level of a sacrament is outdated. In any event, a marriage concerns only two persons and not society at large. The State has no business to enter into their lives and punish the alleged wrongdoer.

(iii) Clause 5 is retrograde as well as unconstitutional. The absolute power of the executive government to commute a sentence of death or life imprisonment, *without recording reasons*, is violative of Article 14 of the Constitution. The same comment applies to Section 475 of Bill No. 122 of 2023 to replace The Code of Criminal Procedure, 1973. The definition of "appropriate government" is defective. If a matter is in the Concurrent List, the executive power of both the Union and the State will extend to that matter and a question may arise who is the "appropriate government". Hence in view of Article 73 and Article 162, the issue needs to be clarified.

(iv) Clause 11 should be deleted. 'Solitary confinement' as a punishment has no place in modern criminal jurisprudence. It certainly does not aid in the reformation of a convict. It is demeaning, humiliating and has the consequence of making a convict into a hardened criminal.



(v) Clause 72(3) is unconstitutional. It violates Article 19(1)(a) of the Constitution. The Court can restrict the right of the media to report the Court's proceedings in a particular case, legislation cannot bar the media in all cases.

(vi) Clause 37 denies the right of private defence in certain circumstances where such right ought to be available. For example, in a case where a public servant directs his subordinates to strip and parade a person or to sexually assault a person, there may be no apprehension of death or grievous hurt; nevertheless, the victim should have a right of private defence which is denied by the Clause.

(vii) A provision to punish a parent or legal guardian who uses a child for the purposes of begging must be introduced in either Clause 93 or Clause 137.

(viii) The punishments for 'abetment' provided in Clauses 55(2) and 57 are excessive and will be struck down on the principle of 'proportionality'.

(ix) In Clause 104(2), the words " or fails to report the incident to a Police officer or Magistrate soon after the incident" are violative of Article 20(3) of the Constitution and ought to be deleted.

(x) Clause 111 refers to the offence of 'terrorist act' and provides for punishment thereof. The Unlawful Activities (Prevention) Act, 1967 is a comprehensive law that has stood scrutiny by Courts. It has special provisions on sanction for prosecution, burden of proof, etc. if there is need, the special law, UAPA, can be amended. There is no need to displace that Act and include provisions in Bill No.121 of 2023.

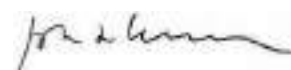
(xi) Clause 213 is unconstitutional. A person can be compelled to sign a statement only when he is legally bound to do so, not otherwise. The provision violates Article 20(3) of the Constitution.

(xii) In the clauses that deal with adulteration etc., the following changes are necessary:

- > In Clauses 272, 273 and 274, *mens rea* must be provided by adding the word " knowingly" .
- > In Clauses 275 and 276, the punishment for Sale of adulterated drugs must be made more severe.
- > In Clause 277, the punishment for fouling water must be made more severe.
- > In Clause 282, the punishment for carrying persons in unsafe or overloaded vessel must be made more severe.

(xiii) Clause 354 deals with defamation. While 'defamation' may be retained as an offence, a limitation period must be provided within which a person may be prosecuted. A limitation of one year from the date of knowledge of the alleged defamatory statement by the complainant may be provided.

(xiv) Chapter IX on 'Offences relating to elections' may be deleted. The subject is and can be adequately covered in the two Representation of People Acts of 1950 and 1951. So far as



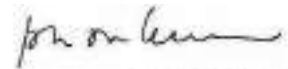
municipal and panchayat elections are concerned, the State laws can - and presently do - deal with the subject.

Part C

4. I had pointed out substantive as well as minor drafting errors in several clauses of the Bill but only some of them have been accepted. Two important suggestions are:

(i) Both "imprisonment for life" and "imprisonment for the remainder of a person's natural life" should be separately defined and used in appropriate sections.

(ii) "Community service" should be defined so that there is certainty in what may be awarded by a Court while sentencing a person to do "community service".



08-11-2023

ANNEXURES

Annexure - I

AS INTRODUCED IN LOK SABHA

Bill No. 121 of 2023

THE BHARATIYA NYAYA SANHITA, 2023

ARRANGEMENT OF CLAUSES

CHAPTER I

PRELIMINARY

CLAUSES

1. Short title, commencement and application.
2. Definitions.
3. General Explanations and expressions.

CHAPTER II

OF PUNISHMENTS

4. Punishments.
5. Commutation of sentence of death or imprisonment for life.
6. Fractions of terms of punishment.
7. Sentence may be (in certain cases of imprisonment) wholly or partly rigorous or simple.
8. Amount of fine, liability in default of payment of fine, etc.
9. Limit of punishment of offence made up of several offences.
10. Punishment of person guilty of one of several offences, the judgment stating that it is doubtful of which.
11. Solitary confinement.
12. Limit of solitary confinement.
13. Enhanced punishment for certain offences after previous conviction.

CHAPTER III

GENERAL EXCEPTIONS

14. Act done by a person bound, or by mistake of fact believing himself bound, by law.
15. Act of Judge when acting judicially.
16. Act done pursuant to the judgment or order of Court.
17. Act done by a person justified, or by mistake of fact believing himself, justified, by law.
18. Accident in doing a lawful act.
19. Act likely to cause harm, but done without criminal intent, and to prevent other harm.
20. Act of a child under seven years of age.
21. Act of a child above seven and under twelve of immature understanding.
22. Act of a person of mental illness.
23. Act of a person incapable of judgment by reason of intoxication caused against his will.

(ii)

CLAUSES

24. Offence requiring a particular intent or knowledge committed by one who is intoxicated.
25. Act not intended and not known to be likely to cause death or grievous hurt, done by consent.
26. Act not intended to cause death, done by consent in good faith for person's benefit.
27. Act done in good faith for benefit of child or person with mental illness, by or by consent of guardian.
28. Consent known to be given under fear or misconception.
29. Exclusion of acts which are offences independently of harm caused.
30. Act done in good faith for benefit of a person without consent.
31. Communication made in good faith.
32. Act to which a person compelled by threats.
33. Act causing slight harm.

Of the Right of Private Defence

34. Things done in private defence.
35. Right of private defence of the body and of property.
36. Right of private defence against the act of a person with mental illness, etc.
37. Acts against which there is no right of private defence.
38. When the right of private defence of the body extends to causing death.
39. When such right extends to causing any harm other than death.
40. Commencement and continuance of the right of private defence of the body.
41. When the right of private defence of property extends to causing death.
42. When such right extends to causing any harm other than death.
43. Commencement and continuance of the right of private defence of property.
44. Right of private defence against deadly assault when there is risk of harm to innocent person.

CHAPTER IV

OF ABETMENT, CRIMINAL CONSPIRACY AND ATTEMPT

Of Abetment

45. Abetment of a thing.
46. Abettor.
47. Abetment in India of offences outside India.
48. Abetment outside India for offence in India.
49. Punishment of abetment if the act abetted is committed in consequence and where no express provision is made for its punishment.
50. Punishment of abetment if person abetted does act with different intention from that of abettor.
51. Liability of abettor when one act abetted and different act done.
52. Abettor when liable to cumulative punishment for act abetted and for act done.

(iii)

CLAUSES

53. Liability of abettor for an effect caused by the act abetted different from that intended by the abettor.
54. Abettor present when offence is committed.
55. Abetment of offence punishable with death or imprisonment for life.
56. Abetment of offence punishable with imprisonment.
57. Abetting commission of offence by the public or by more than ten persons.
58. Concealing design to commit offence punishable with death or imprisonment for life.
59. Public servant concealing design to commit offence which it is his duty to prevent.
60. Concealing design to commit offence punishable with imprisonment.

Of Criminal Conspiracy

61. Criminal conspiracy.

Of Attempt

62. Punishment for attempting to commit offences punishable with imprisonment for life or other imprisonment.

CHAPTER V

OF OFFENCES AGAINST WOMAN AND CHILDREN

Of Sexual offences

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.
67. Sexual intercourse by husband upon his wife during separation or by a person in authority.
68. Sexual intercourse by a person in authority.
69. Sexual intercourse by employing deceitful means etc.
70. Gang rape.
71. Punishment for repeat offenders.
72. Disclosure of identity of the victim of certain offences, etc.

Of criminal force and assault against women

73. Assault or criminal force to woman with intent to outrage her modesty.
74. Sexual harassment and punishment for sexual harassment.
75. Assault or use of criminal force to woman with intent to disrobe.
76. Voyeurism.
77. Stalking.
78. Word, gesture or act intended to insult the modesty of a woman.

Of offences relating to marriage

79. Dowry death.
80. Cohabitation caused by a man deceitfully inducing a belief of lawful marriage.

CLAUSES

81. Marrying again during lifetime of husband or wife.
82. Marriage ceremony fraudulently gone through without lawful marriage.
83. Enticing or taking away or detaining with criminal intent a married woman.
84. Husband or relative of husband of a woman subjecting her to cruelty.
85. Kidnapping, abducting or inducing woman to compel her marriage, etc.

Of the causing of miscarriage, etc.

86. Causing miscarriage.
87. Causing miscarriage without woman's consent.
88. Death caused by act done with intent to cause miscarriage.
89. Act done with intent to prevent child being born alive or to cause it to die after birth.
90. Causing death of quick unborn child by act amounting to culpable homicide.

Of offences against children

91. Exposure and abandonment of child under twelve years, by parent or person having care of it.
92. Concealment of birth by secret disposal of dead body.
93. Hiring, employing or engaging a child to commit an offence.
94. Procuration of child.
95. Kidnapping or abducting child under ten years with intent to steal from its person.
96. Selling child for purposes of prostitution, etc.
97. Buying child for purposes of prostitution, etc.

CHAPTER VI

OF OFFENCES AFFECTING THE HUMAN BODY

Of offences affecting life

98. Culpable homicide.
99. Murder.
100. Culpable homicide by causing death of person other than person whose death was intended.
101. Punishment for murder.
102. Punishment for murder by life-convict.
103. Punishment for culpable homicide not amounting to murder.
104. Causing death by negligence.
105. Abetment of suicide of child or person with mental illness.
106. Abetment of suicide.
107. Attempt to murder.
108. Attempt to commit culpable homicide.
109. Organised crime.

CLAUSES

- 110. Petty organised crime or organised in general.
- 111. Offence of terrorist act.

Of hurt

- 112. Hurt.
- 113. Voluntarily causing hurt.
- 114. Grievous hurt.
- 115. Voluntarily causing grievous hurt.
- 116. Voluntarily causing hurt or grievous hurt by dangerous weapons or means.
- 117. Voluntarily causing hurt or grievous hurt to extort property, or to constrain to an illegal to an act.
- 118. Voluntarily causing hurt or grievous hurt to extort confession, or to compel restoration of property.
- 119. Voluntarily causing hurt or grievous hurt to deter public servant from his duty.
- 120. Voluntarily causing hurt or grievous hurt on provocation.
- 121. Causing hurt by means of poison, etc., with intent to commit an offence.
- 122. Voluntarily causing grievous hurt by use of acid, etc.
- 123. Act endangering life or personal safety of others.
- 124. Wrongful restraint.
- 125. Wrongful confinement.

Of Criminal Force and Assault

- 126. Force.
- 127. Criminal force.
- 128. Assault.
- 129. Punishment for assault or criminal force otherwise than on grave provocation.
- 130. Assault or criminal force to deter public servant from discharge of his duty.
- 131. Assault or criminal force with intent to dishonor person, otherwise than on grave provocation.
- 132. Assault or criminal force in attempt to commit theft of property carried by a person.
- 133. Assault or criminal force in attempt wrongfully to confine a person.
- 134. Assault or criminal force on grave provocation.

Of Kidnapping, Abduction, Slavery and Forced Labour

- 135. Kidnapping.
- 136. Abduction.
- 137. Kidnapping or maiming a child for purposes of begging.
- 138. Kidnapping or abducting in order to murder or for ransom *etc.*
- 139. Importation of girl or boy from foreign country.
- 140. Wrongfully concealing or keeping in confinement, kidnapped or abducted person.
- 141. Trafficking of person.
- 142. Exploitation of a trafficked person.

CLAUSES

- 143. Habitual dealing in slaves.
- 144. Unlawful compulsory labour.

CHAPTER VII

OF OFFENCES AGAINST THE STATE

- 145. Waging, or attempting to wage war, or abetting waging of war, against the Government of India.
- 146. Conspiracy to commit offences punishable by section 145.
- 147. Collecting arms, etc., with intention of waging war against the Government of India.
- 148. Concealing with intent to facilitate design to wage war.
- 149. Assaulting President, Governor, etc., with intent to compel or restrain the exercise of any lawful power.
- 150. Acts endangering sovereignty unity and integrity of India.
- 151. Waging war against Government of any foreign State at peace with the Government of India.
- 152. Committing depredation on territories of foreign State at peace with the Government of India.
- 153. Receiving property taken by war or depredation mentioned in sections 153 and 154.
- 154. Public servant voluntarily allowing prisoner of state or war to escape.
- 155. Public servant negligently suffering such prisoner to escape.
- 156. Aiding escape of, rescuing or harbouring such prisoner.

CHAPTER VIII

OF OFFENCES RELATING TO THE ARMY, NAVY AND AIR FORCE

- 157. Abetting mutiny, or attempting to seduce a soldier, sailor or airman from his duty.
- 158. Abetment of mutiny, if mutiny is committed in consequence thereof.
- 159. Abetment of assault by soldier, sailor or airman on his superior officer, when in execution of his office.
- 160. Abetment of such assault, if the assault committed.
- 161. Abetment of desertion of soldier, sailor or airman.
- 162. Harboursing deserter.
- 163. Deserter concealed on board merchant vessel through negligence of master.
- 164. Abetment of act of insubordination by soldier, sailor or airman.
- 165. Persons subject to certain Acts.
- 166. Wearing garb or carrying token used by soldier, sailor or airman.

CHAPTER IX

OF OFFENCES RELATING TO ELECTIONS

- 167. Candidate, electoral right defined.
- 168. Bribery.
- 169. Undue influence at elections.

CLAUSES

170. Personation at elections.
171. Punishment for bribery.
172. Punishment for undue influence or personation at an election.
173. False statement in connection with an election.
174. Illegal payments in connection with an election.
175. Failure to keep election accounts.

CHAPTER X

OF OFFENCES RELATING TO COIN, CURRENCY NOTES, BANK NOTES, AND
GOVERNMENT STAMPS

176. Counterfeiting coin, government stamps, currency-notes or bank-notes.
177. Using as genuine, forged or counterfeit coin, Government stamp, currency-notes or bank notes.
178. Possession of forged or counterfeit coin, Government stamp, currency-notes or bank-notes.
179. Making or possessing instruments or materials for forging or counterfeiting coin, Government stamp, currency notes or bank-notes.
180. Making or using documents resembling currency-notes or bank-notes.
181. Effacing writing from substance bearing Government stamp, or removing from document a stamp used for it, with intent to cause loss to Government.
182. Using Government stamp known to have been before used.
183. Erasure of mark denoting that stamp has been used.
184. Prohibition of fictitious stamps.
185. Person employed in mint causing coin to be of different weight or composition from that fixed by law.
186. Unlawfully taking coining instrument from mint.

CHAPTER XI

OF OFFENCES AGAINST THE PUBLIC TRANQUILLITY

187. Unlawful assembly.
188. Every member of unlawful assembly guilty of offence committed in prosecution of common object.
189. Rioting.
190. Wantonly giving provocation with intent to cause riot- if rioting be committed; if not committed.
191. Liability of owner, occupier etc., of land on which an unlawful assembly or riot takes place.
192. Affray.
193. Assaulting or obstructing public servant when suppressing riot, etc.
194. Promoting enmity between different groups on ground of religion, race, place of birth, residence, language, etc., and doing acts prejudicial to maintenance of harmony.
195. Imputations, assertions prejudicial to national integration.

(viii)

CHAPTER XII

OF OFFENCES BY OR RELATING TO PUBLIC SERVANTS

CLAUSES

196. Public servant disobeying law, with intent to cause injury to any person.
197. Public servant disobeying direction under law.
198. Punishment for non-treatment of victim.
199. Public servant framing an incorrect document with intent to cause injury.
200. Public servant unlawfully engaging in trade.
201. Public servant unlawfully buying or bidding for property.
202. Personating a public servant.
203. Wearing garb or carrying token used by public servant with fraudulent intent.

CHAPTER XIII

OF CONTEMPTS OF THE LAWFUL AUTHORITY OF PUBLIC SERVANTS

204. Absconding to avoid service of summons or other proceeding.
205. Preventing service of summons or other proceeding, or preventing publication thereof.
206. Non-attendance in obedience to an order from public servant.
207. Non-appearance in response to a proclamation under section 82 of Act ___ of 2023.
208. Omission to produce document to public servant by person legally bound to produce it.
209. Omission to give notice or information to public servant by person legally bound to give it.
210. Furnishing false information.
211. Refusing oath or affirmation when duly required by public servant to make it.
212. Refusing to answer public servant authorised to question.
213. Refusing to sign statement.
214. False statement on oath or affirmation to public servant or person authorised to administer an oath or affirmation.
215. False information, with intent to cause public servant to use his lawful power to the injury of another person.
216. Resistance to the taking of property by the lawful authority of a public servant.
217. Obstructing sale of property offered for sale by authority of public servant.
218. Illegal purchase or bid for property offered for sale by authority of public servant.
219. Obstructing public servant in discharge of public functions.
220. Omission to assist public servant when bound by law to give assistance.
221. Disobedience to order duly promulgated by public servant.
222. Threat of injury to public servant.
223. Threat of injury to induce person to refrain from applying for protection to public servant.
224. Attempt to commit suicide to compel or restraint exercise of lawful power.

CHAPTER XIV

OF FALSE EVIDENCE AND OFFENCES AGAINST PUBLIC JUSTICE

CLAUSES

225. Giving false evidence.
226. Fabricating false evidence.
227. Punishment for false evidence.
228. Giving or fabricating false evidence with intent to procure conviction of capital offence.
229. Giving or fabricating false evidence with intent to procure conviction of offence punishable with imprisonment for life or imprisonment.
230. Threatening any person to give false evidence.
231. Using evidence known to be false.
232. Issuing or signing false certificate.
233. Using as true a certificate known to be false.
234. False statement made in declaration which is by law receivable as evidence.
235. Using as true such declaration knowing it to be false.
236. Causing disappearance of evidence of offence, or giving false information to screen offender.
237. Intentional omission to give information of offence by person bound to inform.
238. Giving false information respecting an offence committed.
239. Destruction of document to prevent its production as evidence.
240. False personation for purpose of act or proceeding in suit or prosecution.
241. Fraudulent removal or concealment of property to prevent its seizure as forfeited or in execution.
242. Fraudulent claim to property to prevent its seizure as forfeited or in execution.
243. Fraudulently suffering decree for sum not due.
244. Dishonestly making false claim in Court.
245. Fraudulently obtaining decree for sum not due.
246. False charge of offence made with intent to injure.
247. Harboursing offender.
248. Taking gift, etc., to screen an offender from punishment.
249. Offering gift or restoration of property in consideration of screening offender.
250. Taking gift to help to recover stolen property, etc.
251. Harboursing offender who has escaped from custody or whose apprehension has been ordered.
252. Penalty for harboursing robbers or dacoits.
253. Public servant disobeying direction of law with intent to save person from punishment or property from forfeiture.
254. Public servant framing incorrect record or writing with intent to save person from punishment or property from forfeiture.

CLAUSES

255. Public servant in judicial proceeding corruptly making report, etc., contrary to law.
256. Commitment for trial or confinement by person having authority who knows that he is acting contrary to law.
257. Intentional omission to apprehend on the part of public servant bound to apprehend.
258. Intentional omission to apprehend on the part of public servant bound to apprehend person under sentence or lawfully committed.
259. Escape from confinement or custody negligently suffered by public servant.
260. Resistance or obstruction by a person to his lawful apprehension.
261. Resistance or obstruction to lawful apprehension of another person.
262. Omission to apprehend, or sufferance of escape, on part of public servant, in cases not otherwise, provided for.
263. Resistance or obstruction to lawful apprehension or escape or rescue in cases not otherwise provided for.
264. Violation of condition of remission of punishment.
265. Intentional insult or interruption to public servant sitting in judicial proceeding.
266. Personation of an assessor.
267. Failure by person released on bail or bond to appear in court.

CHAPTER XV

OF OFFENCES AFFECTING THE PUBLIC HEALTH, SAFETY, CONVENIENCE,
DECENCY AND MORALS

268. Public nuisance.
269. Negligent act likely to spread infection of disease dangerous to life.
270. Malignant act likely to spread infection of disease dangerous to life.
271. Disobedience to quarantine rule.
272. Adulteration of food or drink intended for sale.
273. Sale of noxious food or drink.
274. Adulteration of drugs.
275. Sale of adulterated drugs.
276. Sale of drug as a different drug or preparation.
277. Fouling water of public spring or reservoir.
278. Making atmosphere noxious to health.
279. Rash driving or riding on a public way.
280. Rash navigation of vessel.
281. Exhibition of false light, mark or buoy.
282. Conveying person by water for hire in unsafe or overloaded vessel.
283. Danger or obstruction in public way or line of navigation.
284. Negligent conduct with respect to poisonous substance.

CLAUSES

- 285. Negligent conduct with respect to fire or combustible matter.
- 286. Negligent conduct with respect to explosive substance.
- 287. Negligent conduct with respect to machinery.
- 288. Negligent conduct with respect to pulling down, repairing or constructing buildings etc.
- 289. Negligent conduct with respect to animal.
- 290. Punishment for public nuisance in cases not otherwise provided for.
- 291. Continuance of nuisance after injunction to discontinue.
- 292. Sale, etc., of obscene books, etc.
- 293. Sale, etc., of obscene objects to child.
- 294. Obscene acts and songs.
- 295. Keeping lottery office.

CHAPTER XVI

OF OFFENCES RELATING TO RELIGION

- 296. Injuring or defiling place of worship, with intent to insult the religion of any class.
- 297. Deliberate and malicious acts, intended to outrage religious feelings of any class by insulting its religion or religious beliefs.
- 298. Disturbing religious assembly.
- 299. Trespassing on burial places, etc.
- 300. Uttering words, etc., with deliberate intent to wound religious feelings.

CHAPTER XVII

OF OFFENCES AGAINST PROPERTY

- 301. Theft.
- 302. Snatching.
- 303. Theft in a dwelling house, or means of transportation or place of worship, etc.
- 304. Theft by clerk or servant of property in possession of master.
- 305. Theft after preparation made for causing death, hurt or restraint in order to the committing of theft.

Of extortion

- 306. Extortion.

Of Robbery and Dacoity

- 307. Robbery.
- 308. Dacoity.
- 309. Robbery, or dacoity, with attempt to cause death or grievous hurt.
- 310. Attempt to commit robbery or dacoity when armed with deadly weapon.
- 311. Punishment for belonging to gang of robbers, dacoits, etc.

Of Criminal Misappropriation of Property

CLAUSES

- 312. Dishonest misappropriation of property.
- 313. Dishonest misappropriation of property possessed by deceased person at the time of his death.

Of Criminal Breach of Trust

- 314. Criminal breach of trust.

Of the Receiving of Stolen Property

- 315. Stolen property.

Of Cheating

- 316. Cheating.
- 317. Cheating by personation.

Of Fraudulent Deeds and Dispositions of Property

- 318. Dishonest or fraudulent removal or concealment of property to prevent distribution among creditors.
- 319. Dishonestly or fraudulently preventing debt being available for creditors.
- 320. Dishonest or fraudulent execution of deed of transfer containing false statement of consideration.
- 321. Dishonest or fraudulent removal or concealment of property.

Of Mischief

- 322. Mischief.
- 323. Mischief by killing or maiming animal.
- 324. Mischief by injury, inundation, fire or explosive substance, etc.
- 325. Mischief with intent to destroy or make unsafe a rail, aircraft, decked vessel or one of twenty tons burden.
- 326. Punishment for intentionally running vessel aground or ashore with intent to commit theft, etc.

Of Criminal Trespass

- 327. Criminal trespass and house-trespass.
- 328. House-trespass and house-breaking.
- 329. Punishment for house-trespass or house breaking.
- 330. House-trespass in order to commit offence.
- 331. House-trespass after preparation for hurt, assault or wrongful restraint.
- 332. Dishonestly breaking open receptacle containing property.

CHAPTER XVIII

OF OFFENCES RELATING TO DOCUMENTS AND TO PROPERTY MARKS

- 333. Making a false document.
- 334. Forgery.

CLAUSES

- 335. Forgery of record of Court or of public register, etc.
- 336. Forgery of valuable security, will, etc.
- 337. Having possession of document described in section 335 or 336, knowing it to be forged and intending to use it as genuine.
- 338. Forged document or electronic record and using it as genuine.
- 339. Making or possessing counterfeit seal, etc., with intent to commit forgery punishable under section 336.
- 340. Counterfeiting device or mark used for authenticating documents described in section 336, or possessing counterfeit marked material.
- 341. Fraudulent cancellation, destruction, etc., of will, authority to adopt, or valuable security.
- 342. Falsification of accounts.

Of Property Marks

- 343. Property mark.
- 344. Tampering with property mark with intent to cause injury.
- 345. Counterfeiting a property mark.
- 346. Making or possession of any instrument for counterfeiting a property mark.
- 347. Selling goods marked with a counterfeit property mark.
- 348. Making a false mark upon any receptacle containing goods.

CHAPTER XIX

OF CRIMINAL INTIMIDATION, INSULT, ANNOYANCE, DEFAMATION, ETC.

- 349. Criminal intimidation.
- 350. Intentional insult with intent to provoke breach of peace.
- 351. Statements conducing to public mischief.
- 352. Act caused by inducing person to believe that he will be rendered an object of the Divine displeasure.
- 353. Misconduct in public by a drunken person.

Of Defamation

- 354. Defamation.
- Of breach of contract to attend on and supply wants of helpless person.*
- 355. Breach of contract to attend on and supply wants of helpless person.
- 356. Repeal and savings.

Bill No. 121 of 2023

THE BHARATIYA NYAYA SANHITA, 2023

A

BILL

to consolidate and amend the provisions relating to offences and for matters connected therewith or incidental thereto.

BE it enacted by Parliament in the Seventy-fourth Year of the Republic of India as follows:—

CHAPTER I

PRELIMINARY

5 **1.** (1) This Act may be called the Bharatiya Nyaya Sanhita, 2023.

(2) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint, and different dates may be appointed for different provisions of the Sanhita.

Short title,
commencement
and
application.

(3) Every person shall be liable to punishment under this Sanhita and not otherwise for every act or omission contrary to the provisions thereof, of which he shall be guilty within India.

(4) Any person liable, by any law for the time being in force in India, to be tried for an offence committed beyond India shall be dealt with according to the provisions of this Sanhita for any act committed beyond India in the same manner as if such act had been committed within India. 5

(5) The provisions of this Sanhita apply also to any offence committed by—

(a) any citizen of India in any place without and beyond India;

(b) any person on any ship or aircraft registered in India wherever it may be; 10

(c) any person in any place without and beyond India committing offence targeting a computer resource located in India.

Explanation.—In this section the word “offence” includes every act committed outside India which, if committed in India, would be punishable under this Sanhita.

Illustration. 15

A, who is a citizen of India, commits a murder in any place without and beyond India, he can be tried and convicted of murder in any place in India in which he may be found.

(6) Nothing in this Sanhita shall affect the provisions of any Act for punishing mutiny and desertion of officers, soldiers, sailors or airmen in the service of the Government of India or the provisions of any special or local law. 20

Definitions.

2. In this Sanhita unless the context otherwise requires,—

(1) “act” as well a series of acts as a single act;

(2) “animal” means any living creature, other than a human being;

(3) “counterfeit”.—A person is said to “counterfeit” who causes one thing to resemble another thing, intending by means of that resemblance to practice deception, or knowing it to be likely that deception will thereby be practised. 25

Explanation 1.—It is not essential to counterfeiting that the imitation should be exact.

Explanation 2.—When a person causes one thing to resemble another thing, and the resemblance is such that a person might be deceived thereby, it shall be presumed, until the contrary is proved, that the person so causing the one thing to resemble the other thing intended by means of that resemblance to practise deception or knew it to be likely that deception would thereby be practised; 30

(4) “Court” means a Judge who is empowered by law to act judicially alone, or a body of Judges, which is empowered by law to act judicially as a body, when such Judge or body of Judges is acting judicially; 35

(5) “death” means the death of a human being unless the contrary appears from the context;

(6) “dishonestly” means doing of an act with the intention of causing wrongful gain to one person or wrongful loss to another person;

(7) “document” means any matter expressed or described upon any substance by means of letters, figures or marks, or by more than one of those means, intended to be used, or which may be used, as evidence of that matter. 40

Explanation 1.—It is immaterial by what means or upon what substance the letters, figures or marks are formed, or whether the evidence is intended for, or may be used in a Court or not. 45

Illustrations.

(a) A writing expressing the terms of a contract, which may be used as evidence of the contract, is a document.

(b) A cheque upon a banker is a document.

5 (c) A power-of-attorney is a document.

(d) A Map or plan which is intended to be used or which may be used as evidence, is a document.

(e) A writing containing directions or instructions is a document.

10 *Explanation 2.*—Whatever is expressed by means of letters, figures or marks as explained by mercantile or other usage, shall be deemed to be expressed by such letters, figures or marks within the meaning of this section, although the same may not be actually expressed.

Illustration.

15 A writes his name on the back of a bill of exchange payable to his order. The meaning of the endorsement, as explained by mercantile usage, is that the bill is to be paid to the holder. The endorsement is a document, and shall be construed in the same manner as if the words “pay to the holder” or words to that effect had been written over the signature.

20 (8) “fraudulently”.—A person is said to do a thing fraudulently if he does that thing with intent to defraud but not otherwise.

(9) “gender”.—the pronoun “he” and its derivatives are used of any person, whether male, female or transgender.

40 of 2019. *Explanation.*— “transgender” shall have the meaning assigned to it in clause (k) of section 2 of the Transgender Persons (Protection of Rights) Act, 2019;

25 (10) “good faith”.—Nothing is said to be done or believed in “good faith” which is done or believed without due care and attention;

(11) “Government” means the Central Government or a State Government;

30 (12) “harbour”.—except as otherwise provided in this Sanhita, includes the supplying a person with shelter, food, drink, money, clothes, arms, ammunition or means of conveyance, or the assisting a person by any means, whether of the same kind as those enumerated in this section or not, to evade apprehension;

(13) “injury” means any harm whatever illegally caused to any person, in body, mind, reputation or property;

35 (14) “illegal”- “legally bound to do”. —The word “illegal” is applicable to everything which is an offence or which is prohibited by law, or which furnishes ground for a civil action; and a person is said to be “legally bound to do” whatever it is illegal in him to omit;

(15) “Judge” means a person who is officially designated as a Judge and includes a person,—

40 (i) who is empowered by law to give, in any legal proceeding, civil or criminal, a definitive judgment, or a judgment which, if not appealed against, would be definitive, or a judgment which, if confirmed by some other authority, would be definitive; or

45 (ii) who is one of a body or persons, which body of persons is empowered by law to give such a judgment.

Illustration.

A Magistrate exercising jurisdiction in respect of a charge on which he has power to sentence to fine or imprisonment, with or without appeal, is a Judge;

(16) “life” means the life of a human being, unless the contrary appears from the context; 5

(17) “local law” means a law applicable only to a particular part of India;

(18) “man” means male human being of any age;

(19) “mental illness” shall have the meaning assigned to it in clause (a) of section 2 of the Mental Healthcare Act, 2017; 10 of 2017.

(20) “month” and “year”.—Wherever the word “month” or the word “year” is used, it is to be understood that the month or the year is to be reckoned according to the Gregorian calendar; 10

(21) “movable property” includes property of every description, except land and things attached to the earth or permanently fastened to anything which is attached to the earth; 15

(22) “number”.—Unless the contrary appears from the context, words importing the singular number include the plural number, and words importing the plural number include the singular number;

(23) “oath” includes a solemn affirmation substituted by law for an oath, and any declaration required or authorised by law to be made before a public servant or to be used for the purpose of proof, whether in a Court or not; 20

(24) “offence”.—Except in the Chapters and sections mentioned in sub-clauses (a) and (b) the word “offence” means an act made punishable by this Sanhita, but—

(a) in Chapter III and in the following sections, namely, sub-sections (2), (3), (4) and (5) of section 8, sections 10, 46, 47, 48, 51, 53, 54, 55, 56, 57, 61, 113, 114, 117, sub-sections (7) and (8) of section 125, 217, 224, 225, 234, 242, 244, 245, 253, 254, 255, 256, 257, sub-sections (6) and (7) of section 306 and clause (b) of section 324, the word “offence” means a thing punishable under this Sanhita, or under any special law or local law; and 25

(b) in sections 183, 205, 206, 232, 233, 243, 247 and 323 the word “offence” shall have the same meaning when the act punishable under the special law or local law is punishable under such law with imprisonment for a term of six months or more, whether with or without fine; 30

(25) “omission” means single omission as well as a series of omissions;

(26) “person” includes any company or association or body of persons, whether incorporated or not; 35

(27) “public” includes any class of the public or any community;

(28) “public servant” means a person falling under any of the descriptions, namely:—

(a) every commissioned officer in the Army, Navy or Air Force; 40

(b) every Judge including any person empowered by law to discharge, whether by himself or as a member of any body of persons, any adjudicatory functions;

(c) every officer including a liquidator, receiver or commissioner whose duty it is, as such officer, to investigate or report on any matter of law or fact, or to make, authenticate, or keep any document, or to take charge or dispose of any 45

property, or to execute any judicial process, or to administer any oath, or to interpret, or to preserve order in the Court, and every person specially authorised to perform any of such duties;

5 (d) every assessor or member of a panchayat assisting a Court or public servant;

(e) every arbitrator or other person to whom any cause or matter has been referred for decision or report by any Court, or by any other competent public authority;

10 (f) every person who holds any office by virtue of which he is empowered to place or keep any person in confinement;

(g) every officer of the Government whose duty it is, as such officer, to prevent offences, to give information of offences, to bring offenders to justice, or to protect the public health, safety or convenience;

15 (h) every officer whose duty it is as such officer, to take, receive, keep or expend any property on behalf of the Government, or to make any survey, assessment or contract on behalf of the Government, or to execute any revenue-process, or to investigate, or to report, on any matter affecting the pecuniary interests of the Government, or to make, authenticate or keep any document relating to the pecuniary interests of the Government, or to prevent the infraction
20 of any law for the protection of the pecuniary interests of the Government;

(i) every officer whose duty it is, as such officer, to take, receive, keep or expend any property, to make any survey or assessment or to levy any rate or tax for any secular common purpose of any village, town or district, or to make, authenticate or keep any document for the ascertaining of the rights of the
25 people of any village, town or district;

(j) every person who holds any office by virtue of which he is empowered to prepare, publish, maintain or revise an electoral roll or to conduct an election or part of an election;

(k) every person—

30 (i) in the service or pay of the Government or remunerated by fees or commission for the performance of any public duty by the Government;

10 of 1897. (ii) in the service or pay of a local authority as defined in clause (31) of section 3 of the General Clauses Act, 1897, a corporation established by or under a Central or State Act or a Government company as defined in
18 of 2013. 35 clause (45) of section 2 of the Companies Act, 2013.

Explanation.—

(a) persons falling under any of the descriptions made in this clause are public servants, whether appointed by the Government or not;

40 (b) every person who is in actual possession of the situation of a public servant, whatever legal defect there may be in his right to hold that situation is a public servant;

(c) “election” means an election for the purpose of selecting members of any legislative, municipal or other public authority, of whatever character, the method of election to which is by, or under any law for the time being
45 in force.

Illustration.

A Municipal Commissioner is a public servant;

(29) “reason to believe”.—A person is said to have “reason to believe” a thing, if he has sufficient cause to believe that thing but not otherwise;

(30) “special law” means a law applicable to a particular subject;

(31) “valuable security” means a document which is, or purports to be, a document where by any legal right is created, extended, transferred, restricted, extinguished or released, or where by any person acknowledges that he lies under legal liability, or has not a certain legal right. 5

Illustration.

A writes his name on the back of a bill of exchange. As the effect of this endorsement is to transfer the right to the bill to any person who may become the lawful holder of it, the endorsement is a “valuable security”; 10

(32) “vessel” means anything made for the conveyance by water of human beings or of property;

(33) “voluntarily” A person is said to cause an effect “voluntarily” when he causes it by means whereby he intended to cause it, or by means which, at the time of employing those means, he knew or had reason to believe to be likely to cause it. 15

Illustration.

A sets fire, by night, to an inhabited house in a large town, for the purpose of facilitating a robbery and thus causes the death of a person. Here, A may not have intended to cause death; and may even be sorry that death has been caused by his act; yet, if he knew that he was likely to cause death, he has caused death voluntarily; 20

(34) “will” means any testamentary document;

(35) “woman” means a female human being of any age;

(36) “wrongful gain” means gain by unlawful means of property to which the person gaining is not legally entitled; 25

(37) “wrongful loss” means the loss by unlawful means of property to which the person losing it is legally entitled;

(38) “gaining wrongfully”, “losing wrongfully”.—A person is said to gain wrongfully when such person retains wrongfully, as well as when such person acquires wrongfully. A person is said to lose wrongfully when such person is wrongfully kept out of any property, as well as when such person is wrongfully deprived of property; and 30

(39) words and expressions used but not defined in this Sanhita but defined in the Information Technology Act, 2000 and the Bhartiya Nagarik Suraksha Sanhita, 2023 and shall have the meanings respectively assigned to them in that Act Sanhita. 21 of 2000.

General Explanations and expressions.

3. (1) Throughout this Sanhita every definition of an offence, every penal provision, and every Illustration of every such definition or penal provision, shall be understood subject to the exceptions contained in the Chapter entitled “General Exceptions”, though those exceptions are not repeated in such definition, penal provision, or Illustration. 35

Illustrations.

(a) The sections, in this Sanhita which contain definitions of offences, do not express that a child under seven years of age cannot commit such offences; but the definitions are to be understood subject to the general exception which provides that nothing shall be an offence which is done by a child under seven years of age. 40

(b) A, a police-officer, without warrant, apprehends Z, who has committed murder. Here A is not guilty of the offence of wrongful confinement; for he was bound by law to apprehend Z, and therefore the case falls within the general exception which provides that “nothing is an offence which is done by a person who is bound by law to do it”. 45

(2) Every expression which is explained in any Part of this Sanhita, is used in every Part of this Sanhita in conformity with the explanation.

(3) When property is in the possession of a person's spouse, clerk or servant, on account of that person, it is in that person's possession within the meaning of this Sanhita.

5 *Explanation.*—A person employed temporarily or on a particular occasion in the capacity of a clerk or servant, is a clerk or servant within the meaning of this sub-section.

(4) In every Part of this Sanhita, except where a contrary intention appears from the context, words which refer to acts done extend also to illegal omissions.

10 (5) When a criminal act is done by several persons in furtherance of the common intention of all, each of such persons is liable for that act in the same manner as if it were done by him alone.

15 (6) Whenever an act, which is criminal only by reason of its being done with a criminal knowledge or intention, is done by several persons, each of such persons who joins in the act with such knowledge or intention is liable for the act in the same manner as if the act were done by him alone with that knowledge or intention.

(7) Wherever the causing of a certain effect, or an attempt to cause that effect, by an act or by an omission, is an offence, it is to be understood that the causing of that effect partly by an act and partly by an omission is the same offence.

Illustration.

20 A intentionally causes Z's death, partly by illegally omitting to give Z food, and partly by beating Z. A has committed murder.

(8) When an offence is committed by means of several acts, whoever intentionally co-operates in the commission of that offence by doing any one of those acts, either singly or jointly with any other person, commits that offence.

Illustrations.

25 (a) A and B agree to murder Z by severally and at different times giving him small doses of poison. A and B administer the poison according to the agreement with intent to murder Z. Z dies from the effects the several doses of poison so administered to him. Here A and B intentionally cooperate in the commission of murder and as each of them does an act by
30 which the death is caused, they are both guilty of the offence though their acts are separate.

(b) A and B are joint jailors, and as such have the charge of Z, a prisoner, alternatively for six hours at a time. A and B, intending to cause Z's death, knowingly co-operate in causing that effect by illegally omitting, each during the time of his attendance, to furnish Z with food supplied to them for that purpose. Z dies of hunger. Both A and B are guilty of the
35 murder of Z.

(c) A, a jailor, has the charge of Z, a prisoner. A, intending to cause Z's death, illegally omits to supply Z with food; in consequence of which Z is much reduced in strength, but the starvation is not sufficient to cause his death. A is dismissed from his office, and B succeeds him. B, without collusion or co-operation with A, illegally omits to supply Z with food,
40 knowing that he is likely thereby to cause Z's death. Z dies of hunger. B is guilty of murder, but, as A did not co-operate with B. A is guilty only of an attempt to commit murder.

(9) Where several persons are engaged or concerned in the commission of a criminal act, they may be guilty of different offences by means of that act.

Illustration.

45 A attacks Z under such circumstances of grave provocation that his killing of Z would be only culpable homicide not amounting to murder. B, having ill-will towards Z and intending

to kill him, and not having been subject to the provocation, assists A in killing Z. Here, though A and B are both engaged in causing Z's death, B is guilty of murder, and A is guilty only of culpable homicide.

CHAPTER II

OF PUNISHMENTS

		5
Punishments.	4. The punishments to which offenders are liable under the provisions of this Sanhita are—	
	(a) Death;	
	(b) Imprisonment for life, that is to say, imprisonment for remainder of a person's natural life;	10
	(c) Imprisonment, which is of two descriptions, namely:—	
	(1) Rigorous, that is, with hard labour;	
	(2) Simple;	
	(d) Forfeiture of property;	
	(e) Fine;	15
	(f) Community Service.	
Commutation of sentence of death or imprisonment for life.	5. In every case in which sentence of,—	
	(a) death has been passed, the appropriate Government may, without the consent of the offender, commute the punishment for any other punishment provided by this Sanhita;	20
	(b) imprisonment for life has been passed, the appropriate Government may, without the consent of the offender, commute the punishment for imprisonment of either description for a term not exceeding fourteen years.	
	<i>Explanation.</i> —For the purposes of this section expression“ appropriate Government” means,—	25
	(a) in cases where the sentence is a sentence of death or is for an offence against any law relating to a matter to which the executive power of the Union extends, the Central Government; and	
	(b) in cases where the sentence (whether of death or not) is for an offence against any law relating to a matter to which the executive power of the State extends, the Government of the State within which the offender is sentenced.	30
Fractions of terms of punishment.	6. In calculating fractions of terms of punishment, imprisonment for life shall be reckoned as equivalent to imprisonment for twenty years unless otherwise provided.	
Sentence may be (in certain cases of imprisonment) wholly or partly rigorous or simple.	7. In every case in which an offender is punishable with imprisonment which may be of either description, it shall be competent to the Court which sentences such offender to direct in the sentence that such imprisonment shall be wholly rigorous, or that such imprisonment shall be wholly simple, or that any part of such imprisonment shall be rigorous and the rest simple.	35
Amount of fine, liability in default of payment of fine, etc.	8. (1) Where no sum is expressed to which a fine may extend, the amount of fine to which the offender is liable is unlimited, but shall not be excessive.	40
	(2) In every case of an offence—	
	(a) punishable with imprisonment as well as fine, in which the offender is sentenced to a fine, whether with or without imprisonment;	

(b) punishable with imprisonment or fine, or with fine only, in which the offender is sentenced to a fine, it shall be competent to the Court which sentences such offender to direct by the sentence that, in default of payment of the fine, the offender shall suffer imprisonment for a certain term, in which imprisonment shall be in excess of any other imprisonment to which he may have been sentenced or to which he may be liable under a commutation of a sentence.

(3) The term for which the Court directs the offender to be imprisoned in default of payment of a fine shall not exceed one-fourth of the term of imprisonment which is the maximum fixed for the offence, if the offence be punishable with imprisonment as well as fine.

(4) The imprisonment which the Court imposes in default of payment of a fine or in default of community service may be of any description to which the offender might have been sentenced for the offence.

(5) If the offence is punishable with fine or community service, the imprisonment which the Court imposes in default of payment of the fine or in default of community service shall be simple, and the term for which the Court directs the offender to be imprisoned, in default of payment of fine or in default of community service, shall not exceed for any term not exceeding,—

(a) two months when the amount of the fine shall not exceed five thousand rupees; and

(b) four months when the amount of the fine shall not exceed ten thousand rupees, and for any term not exceeding one year in any other case.

(6) (a) The imprisonment which is imposed in default of payment of a fine shall terminate whenever that fine is either paid or levied by process of law;

(b) If, before the expiration of the term of imprisonment fixed in default of payment, such a proportion of the fine be paid or levied that the term of imprisonment suffered in default of payment is not less than proportional to the part of the fine still unpaid, the imprisonment shall terminate.

Illustration.

A is sentenced to a fine of one thousand rupees and to four months' imprisonment in default of payment. Here, if seven hundred and fifty rupees of the fine be paid or levied before the expiration of one month of the imprisonment, A will be discharged as soon as the first month has expired. If seven hundred and fifty rupees be paid or levied at the time of the expiration of the first month, or at any later time while A continues in imprisonment, A will be immediately discharged. If five hundred rupees of the fine be paid or levied before the expiration of two months of the imprisonment, A will be discharged as soon as the two months are completed. If five hundred rupees be paid or levied at the time of the expiration of those two months, or at any later time while A continues in imprisonment, A will be immediately discharged.

(7) The fine, or any part thereof which remains unpaid, may be levied at any time within six years after the passing of the sentence, and if, under the sentence, the offender be liable to imprisonment for a longer period than six years, then at any time previous to the expiration of that period; and the death of the offender does not discharge from the liability any property which would, after his death, be legally liable for his debts.

9. (1) Where anything which is an offence is made up of parts, any of which parts is itself an offence, the offender shall not be punished with the punishment of more than one of such his offences, unless it be so expressly provided.

Limit of punishment of offence made up of several offences.

(2) (a) Where anything is an offence falling within two or more separate definitions of any law in force for the time being by which offences are defined or punished; or

(b) Where several acts, of which one or more than one would by itself or themselves

constitute an offence, constitute, when combined, a different offence,
the offender shall not be punished with a more severe punishment than the Court which tries him could award for any one of such offences.

Illustrations.

(a) A gives Z fifty strokes with a stick. Here A may have committed the offence of voluntarily causing hurt to Z by the whole beating, and also by each of the blows which make up the whole beating. If A were liable to punishment for every blow, he might be imprisoned for fifty years, one for each blow. But he is liable only to one punishment for the whole beating. 5

(b) But, if, while A is beating Z, Y interferes, and A intentionally strikes Y, here, as the blow given to Y is no part of the act whereby A voluntarily causes hurt to Z, A is liable to one punishment for voluntarily causing hurt to Z, and to another for the blow given to Y. 10

Punishment of person guilty of one of several offences, judgment stating that it is doubtful of which.

10. In all cases in which judgment is given that a person is guilty of one of several offences specified in the judgment, but that it is doubtful of which of these offences he is guilty, the offender shall be punished for the offence for which the lowest punishment is provided if the same punishment is not provided for all. 15

Solitary confinement.

11. Whenever any person is convicted of an offence for which under this Sanhita the Court has power to sentence him to rigorous imprisonment, the Court may, by its sentence, order that the offender shall be kept in solitary confinement for any portion or portions of the imprisonment to which he is sentenced, not exceeding three months in the whole, according to the following scale, namely: — 20

(a) a time not exceeding one month if the term of imprisonment shall not exceed six months;

(b) a time not exceeding two months if the term of imprisonment shall exceed six months and shall not exceed one year; 25

(c) a time not exceeding three months if the term of imprisonment shall exceed one year.

Limit of solitary confinement.

12. In executing a sentence of solitary confinement, such confinement shall in no case exceed fourteen days at a time, with intervals between the periods of solitary confinement of not less duration than such periods; and when the imprisonment awarded shall exceed three months, the solitary confinement shall not exceed seven days in any one month of the whole imprisonment awarded, with intervals between the periods of solitary confinement of not less duration than such periods. 30

Enhanced punishment for certain offences after previous conviction.

13. Whoever, having been convicted by a Court in India, of an offence punishable under Chapters X or Chapter XVII of this Sanhita with imprisonment of either description for a term of three years or upwards, shall be guilty of any offence punishable under either of those Chapters with like imprisonment for the like term, shall be subject for every such subsequent offence to imprisonment for life, or to imprisonment of either description for a term which may extend to ten years. 35

CHAPTER III

GENERAL EXCEPTIONS

Act done by a person bound, or by mistake of fact believing himself bound, by law.

14. Nothing is an offence which is done by a person who is, or who by reason of a mistake of fact and not by reason of a mistake of law in good faith believes himself to be, bound by law to do it.

Illustrations.

(a) A, a soldier, fires on a mob by the order of his superior officer, in conformity with the commands of the law. A has committed no offence. 45

(b) A, an officer of a Court, being ordered by that Court to arrest Y, and after due enquiry, believing Z to be Y, arrests Z. A has committed no offence.

15. Nothing is an offence which is done by a Judge when acting judicially in the exercise of any power which is, or which in good faith he believes to be, given to him by law.

Act of Judge when acting judicially.

5 **16.** Nothing which is done in pursuance of, or which is warranted by the judgment or order of, a Court; if done whilst such judgment or order remains in force, is an offence, notwithstanding the Court may have had no jurisdiction to pass such judgment or order, provided the person doing the act in good faith believes that the Court had such jurisdiction.

Act done pursuant to judgment or order of Court.

10 **17.** Nothing is an offence which is done by any person who is justified by law, or who by reason of a mistake of fact and not by reason of a mistake of law in good faith, believes himself to be justified by law, in doing it.

Act done by a person justified, or by mistake of fact believing himself, justified, by law.

Illustration.

15 A sees Z commit what appears to A to be a murder. A, in the exercise, to the best of his judgment exerted in good faith, of the power which the law gives to all persons of apprehending murderers in the fact, seizes Z, in order to bring Z before the proper authorities. A has committed no offence, though it may turn out that Z was acting in self-defence.

18. Nothing is an offence which is done by accident or misfortune, and without any criminal intention or knowledge in the doing of a lawful act in a lawful manner by lawful means and with proper care and caution.

Accident in doing a lawful act.

20 *Illustration.*

A is at work with a hatchet; the head flies off and kills a man who is standing by. Here, if there was no want of proper caution on the part of A, his act is excusable and not an offence.

25 **19.** Nothing is an offence merely by reason of its being done with the knowledge that it is likely to cause harm, if it be done without any criminal intention to cause harm, and in good faith for the purpose of preventing or avoiding other harm to person or property.

Act likely to cause harm, but done without criminal intent, and to prevent other harm.

Explanation. —It is a question of fact in such a case whether the harm to be prevented or avoided was of such a nature and so imminent as to justify or excuse the risk of doing the act with the knowledge that it was likely to cause harm.

30 *Illustrations.*

35 (a) A, the captain of a vessel, suddenly, and without any fault or negligence on his part, finds himself in such a position that, before he can stop his vessel, he must inevitably run down a boat B, with twenty or thirty passengers on board, unless he changes the course of his vessel, and that, by changing his course, he must incur risk of running down a boat C with only two passengers on board, which he may possibly clear. Here, if A alters his course without any intention to run down the boat C and in good faith for the purpose of avoiding the danger to the passengers in the boat B, he is not guilty of an offence, though he may run down the boat C by doing an act which he knew was likely to cause that effect, if it be found as a matter of fact that the danger which he intended to avoid was such as to excuse him in incurring the risk of running down the boat C.

40 (b) A, in a great fire, pulls down houses in order to prevent the conflagration from spreading. He does this with the intention in good faith of saving human life or property. Here, if it be found that the harm to be prevented was of such a nature and so imminent as to excuse A's act, A is not guilty of the offence.

Act of a child under seven years of age.	20. Nothing is an offence which is done by a child under seven years of age.	
Act of a child above seven and under twelve of immature understanding.	21. Nothing is an offence which is done by a child above seven years of age and under twelve, who has not attained sufficient maturity of understanding to judge of the nature and consequences of his conduct on that occasion.	
Act of a person of mental illness.	22. Nothing is an offence which is done by a person who, at the time of doing it, by reason of mental illness, is incapable of knowing the nature of the act, or that he is doing what is either wrong or contrary to law.	5
Act of a person incapable of judgment by reason of intoxication caused against his will.	23. Nothing is an offence which is done by a person who, at the time of doing it, is, by reason of intoxication, incapable of knowing the nature of the act, or that he is doing what is either wrong, or contrary to law; unless that the thing which intoxicated him was administered to him without his knowledge or against his will.	10
Offence requiring a particular intent or knowledge committed by one who is intoxicated.	24. In cases where an act done is not an offence unless done with a particular knowledge or intent, a person who does the act in a state of intoxication shall be liable to be dealt with as if he had the same knowledge as he would have had if he had not been intoxicated, unless the thing which intoxicated him was administered to him without his knowledge or against his will.	15
Act not intended and not known to be likely to cause death or grievous hurt, done by consent.	25. Nothing which is not intended to cause death, or grievous hurt, and which is not known by the doer to be likely to cause death or grievous hurt, is an offence by reason of any harm which it may cause, or be intended by the doer to cause, to any person, above eighteen years of age, who has given consent, whether express or implied, to suffer that harm; or by reason of any harm which it may be known by the doer to be likely to cause to any such person who has consented to take the risk of that harm.	20
	<i>Illustration.</i>	
	A and Z agree to fence with each other for amusement. This agreement implies the consent of each to suffer any harm which, in the course of such fencing, may be caused without foul play; and if A, while playing fairly, hurts Z, A commits no offence.	25
Act not intended to cause death, done by consent in good faith for person's benefit.	26. Nothing, which is not intended to cause death, is an offence by reason of any harm which it may cause, or be intended by the doer to cause, or be known by the doer to be likely to cause, to any person for whose benefit it is done in good faith, and who has given a consent, whether express or implied, to suffer that harm, or to take the risk of that harm.	30
	<i>Illustration.</i>	
	A, a surgeon, knowing that a particular operation is likely to cause the death of Z, who suffers under the painful complaint, but not intending to cause Z's death, and intending, in good faith, Z's benefit, performs that operation on Z, with Z's consent. A has committed no offence.	35
Act done in good faith for benefit of child or person with mental illness, by or by consent of guardian.	27. Nothing which is done in good faith for the benefit of a person under twelve years of age, or of person with mental illness, by or by consent, either express or implied, of the guardian or other person having lawful charge of that person, is an offence by reason of any harm which it may cause, or be intended by the doer to cause or be known by the doer to be likely to cause to that person:	40
	Provided that this exception shall not extend to—	
	(a) the intentional causing of death, or to the attempting to cause death;	
	(b) the doing of anything which the person doing it knows to be likely to cause	

death, for any purpose other than the preventing of death or grievous hurt, or the curing of any grievous disease or infirmity;

5 (c) the voluntary causing of grievous hurt, or to the attempting to cause grievous hurt, unless it be for the purpose of preventing death or grievous hurt, or the curing of any grievous disease or infirmity;

(d) the abetment of any offence, to the committing of which offence it would not extend.

Illustration.

10 A, in good faith, for his child's benefit without his child's consent, has his child cut for the stone by a surgeon knowing it to be likely that the operation will cause the child's death, but not intending to cause the child's death. A is within the exception, in as much as his object was the cure of the child.

28. A consent is not such a consent as is intended by any section of this Sanhita,—

15 (a) if the consent is given by a person under fear of injury, or under a misconception of fact, and if the person doing the act knows, or has reason to believe, that the consent was given in consequence of such fear or misconception; or

(b) if the consent is given by a person who, from mental illness, or intoxication, is unable to understand the nature and consequence of that to which he gives his consent; or

20 (c) unless the contrary appears from the context, if the consent is given by a person who is under twelve years of age.

29. The exceptions in sections 21, 22 and 23 do not extend to acts which are offences independently of any harm which they may cause, or be intended to cause, or be known to be likely to cause, to the person giving the consent, or on whose behalf the consent is given.

25 *Illustration.*

Causing miscarriage (unless caused in good faith for the purpose of saving the life of the woman) is offence independently of any harm which it may cause or be intended to cause to the woman. Therefore, it is not an offence "by reason of such harm"; and the consent of the woman or of her guardian to the causing of such miscarriage does not justify the act.

30 30. Nothing is an offence by reason of any harm which it may cause to a person for whose benefit it is done in good faith, even without that person's consent, if the circumstances are such that it is impossible for that person to signify consent, or if that person is incapable of giving consent, and has no guardian or other person in lawful charge of him from whom it is possible to obtain consent in time for the thing to be done with benefit:

35 Provided that exception shall not extend to—

(a) the intentional causing of death, or the attempting to cause death;

(b) the doing of anything which the person doing it knows to be likely to cause death, for any purpose other than the preventing of death or grievous hurt, or the curing of any grievous disease or infirmity;

40 (c) the voluntary causing of hurt, or to the attempting to cause hurt, for any purpose other than the preventing of death or hurt;

(d) the abetment of any offence, to the committing of which offence it would not extend.

Illustrations.

45 (1) Z is thrown from his horse, and is insensible. A, a surgeon, finds that Z requires to

Consent known to be given under fear or misconception.

Exclusion of acts which are offences independently of harm caused.

Act done in good faith for benefit of a person without consent.

be trepanned. A, not intending Z's death, but in good faith, for Z's benefit, performs the trepan before Z recovers his power of judging for himself. A has committed no offence.

(2) Z is carried off by a tiger. A fires at the tiger knowing it to be likely that the shot may kill Z, but not intending to kill Z, and in good faith intending Z's benefit. A's bullet gives Z a mortal wound. A has committed no offence. 5

(3) A, a surgeon, sees a child suffer an accident which is likely to prove fatal unless an operation be immediately performed. There is no time to apply to the child's guardian. A performs the operation in spite of the entreaties of the child, intending, in good faith, the child's benefit. A has committed no offence.

(4) A is in a house which is on fire, with Z, a child. People below hold out a blanket. A 10 drops the child from the house top, knowing it to be likely that the fall may kill the child, but not intending to kill the child, and intending, in good faith, the child's benefit. Here, even if the child is killed by the fall, A has committed no offence.

Explanation.—Mere pecuniary benefit is not benefit within the meaning of sections 21, 22 and 23. 15

Communication made in good faith.

31. No communication made in good faith is an offence by reason of any harm to the person to whom it is made, if it is made for the benefit of that person.

Illustration.

A, a surgeon, in good faith, communicates to a patient his opinion that he cannot live. The patient dies in consequence of the shock. A has committed no offence, though he knew 20 it to be likely that the communication might cause the patient's death.

Act to which a person compelled by threats.

32. Except murder, and offences against the State punishable with death, nothing is an offence which is done by a person who is compelled to do it by threats, which, at the time of doing it, reasonably cause the apprehension that instant death to that person will otherwise be the consequence: 25

Provided the person doing the act did not of his own accord, or from a reasonable apprehension of harm to himself short of instant death, place himself in the situation by which he became subject to such constraint.

Explanation 1.—A person who, of his own accord, or by reason of a threat of being beaten, joins a gang of dacoits, knowing their character, is not entitled to the benefit of this 30 exception, on the ground of his having been compelled by his associates to do anything that is an offence by law.

Explanation 2.—A person seized by a gang of dacoits, and forced, by threat of instant death, to do a thing which is an offence by law; for example, a smith compelled to take his tools and to force the door of a house for the dacoits to enter and plunder it, is entitled to the 35 benefit of this exception.

Act causing slight harm.

33. Nothing is an offence by reason that it causes, or that it is intended to cause, or that it is known to be likely to cause, any harm, if that harm is so slight that no person of ordinary sense and temper would complain of such harm.

Of the right of private defence 40

Things done in private defence.

34. Nothing is an offence which is done in the exercise of the right of private defence.

Right of private defence of body and of property.

35. Every person has a right, subject to the restrictions contained in section 37, to defend—

(a) his own body, and the body of any other person, against any offence affecting the human body; 45

(b) the property, whether movable or immovable, of himself or of any other

person, against any act which is an offence falling under the definition of theft, robbery, mischief or criminal trespass, or which is an attempt to commit theft, robbery, mischief or criminal trespass.

5 **36.** When an act, which would otherwise be a certain offence, is not that offence, by reason of the youth, the want of maturity of understanding, the mental illness or the intoxication of the person doing that act, or by reason of any misconception on the part of that person, every person has the same right of private defence against that act which he would have if the act were that offence.

Right of private defence against act of a person with mental illness, etc.

Illustrations.

10 (a) Z, under the influence of mental illness, attempts to kill A; Z is guilty of no offence. But A has the same right of private defence which he would have if Z were sane.

(b) A enters by night a house which he is legally entitled to enter. Z, in good faith, taking A for a house-breaker, attacks A. Here Z, by attacking A under this misconception, commits no offence. But A has the same right of private defence against Z, which he would
15 have if Z were not acting under that misconception.

37. (1) There is no right of private defence,—

Acts against which there is no right of private defence.

(a) against an act which does not reasonably cause the apprehension of death or of grievous hurt, if done, or attempted to be done, by a public servant acting in good faith under colour of his office, though that act, may not be strictly justifiable by law;

20 (b) against an act which does not reasonably cause the apprehension of death or of grievous hurt, if done, or attempted to be done, by the direction of a public servant acting in good faith under colour of his office, though that direction may not be strictly justifiable by law;

(c) in cases in which there is time to have recourse to the protection of the public
25 authorities.

(2) The right of private defence in no case extends to the inflicting of more harm than it is necessary to inflict for the purpose of defence.

Explanation 1.—A person is not deprived of the right of private defence against an act done, or attempted to be done, by a public servant, as such, unless he knows or has reason
30 to believe, that the person doing the act is such public servant.

Explanation 2.—A person is not deprived of the right of private defence against an act done, or attempted to be done, by the direction of a public servant, unless he knows, or has reason to believe, that the person doing the act is acting by such direction, or unless such person states the authority under which he acts, or if he has authority in writing, unless he
35 produces such authority, if demanded.

38. The right of private defence of the body extends, under the restrictions specified in section 37, to the voluntary causing of death or of any other harm to the assailant, if the offence which occasions the exercise of the right be of any of the descriptions hereinafter enumerated, namely:—

When the right of private defence of body extends to causing death.

40 (a) such an assault as may reasonably cause the apprehension that death will otherwise be the consequence of such assault;

(b) such an assault as may reasonably cause the apprehension that grievous hurt will otherwise be the consequence of such assault;

(c) an assault with the intention of committing rape;

45 (d) an assault with the intention of gratifying unnatural lust;

(e) an assault with the intention of kidnapping or abducting;

(f) an assault with the intention of wrongfully confining a person, under circumstances which may reasonably cause him to apprehend that he will be unable to have recourse to the public authorities for his release;

(g) an act of throwing or administering acid or an attempt to throw or administer acid which may reasonably cause the apprehension that grievous hurt will otherwise be the consequence of such act. 5

When such right extends to causing any harm other than death.

39. If the offence be not of any of the descriptions specified in section 38, the right of private defence of the body does not extend to the voluntary causing of death to the assailant, but does extend, under the restrictions specified in section 37, to the voluntary causing to the assailant of any harm other than death. 10

Commencement and continuance of right of private defence of the body.

40. The right of private defence of the body commences as soon as a reasonable apprehension of danger to the body arises from an attempt or threat to commit the offence though the offence may not have been committed; and it continues as long as such apprehension of danger to the body continues.

When right of private defence of property extends to causing death.

41. The right of private defence of property extends, under the restrictions specified in section 37, to the voluntary causing of death or of any other harm to the wrong-doer, if the offence, the committing of which, or the attempting to commit which, occasions the exercise of the right, be an offence of any of the descriptions hereinafter enumerated, namely:— 15

(a) robbery;

(b) house-breaking after sun set and before sun rise; 20

(c) mischief by fire or any explosive substance committed on any building, tent or vessel, which building, tent or vessel is used as a human dwelling, or as a place for the custody of property;

(d) theft, mischief, or house-trespass, under such circumstances as may reasonably cause apprehension that death or grievous hurt will be the consequence, if such right of private defence is not exercised. 25

When such right extends to causing any harm other than death.

42. If the offence, the committing of which, or the attempting to commit which occasions the exercise of the right of private defence, be theft, mischief, or criminal trespass, not of any of the descriptions specified in section 41, that right does not extend to the voluntary causing of death, but does extend, subject to the restrictions specified in section 37, to the voluntary causing to the wrong-doer of any harm other than death. 30

Commencement and continuance of right of private defence of property.

43. The right of private defence of property,—

(a) commences when a reasonable apprehension of danger to the property commences;

(b) against theft continues till the offender has effected his retreat with the property or either the assistance of the public authorities is obtained, or the property has been recovered; 35

(c) against robbery continues as long as the offender causes or attempts to cause to any person death or hurt or wrongful restraint or as long as the fear of instant death or of instant hurt or of instant personal restraint continues; 40

(d) against criminal trespass or mischief continues as long as the offender continues in the commission of criminal trespass or mischief;

(e) against house-breaking after sunset and before sun rise continues as long as the house-trespass which has been begun by such house-breaking continues.

Right of private defence against deadly assault when there is risk of harm to innocent person.

44. If in the exercise of the right of private defence against an assault which reasonably causes the apprehension of death, the defender be so situated that he cannot effectually 45

exercise that right without risk of harm to an innocent person, his right of private defence extends to the running of that risk.

Illustration.

5 A is attacked by a mob who attempt to murder him. He cannot effectually exercise his right of private defence without firing on the mob, and he cannot fire without risk of harming young children who are mingled with the mob. A commits no offence if by so firing he harms any of the children.

CHAPTER IV

OF ABETMENT, CRIMINAL CONSPIRACY AND ATTEMPT

10 *Of Abetment*

45. A person abets the doing of a thing, who—

Abetment of thing.

(a) instigates any person to do that thing; or

(b) engages with one or more other person or persons in any conspiracy for the doing of that thing, if an act or illegal omission takes place in pursuance of that conspiracy, and in order to the doing of that thing; or

15

(c) intentionally aids, by any act or illegal omission, the doing of that thing.

Explanation 1.—A person who, by wilful misrepresentation, or by wilful concealment of a material fact which he is bound to disclose, voluntarily causes or procures, or attempts to cause or procure, a thing to be done, is said to instigate the doing of that thing.

20

Illustration.

A, a public officer, is authorised by a warrant from a Court to apprehend Z. B, knowing that fact and also that C is not Z, wilfully represents to A that C is Z, and thereby intentionally causes A to apprehend C. Here B abets by instigation the apprehension of C.

Explanation 2.—Whoever, either prior to or at the time of the commission of an act, does anything in order to facilitate the commission of that act, and thereby facilitates the commission thereof, is said to aid the doing of that act.

25

46. A person abets an offence, who abets either the commission of an offence, or the commission of an act which would be an offence, if committed by a person capable by law of committing an offence with the same intention or knowledge as that of the abettor.

Abettor.

30

Explanation 1.—The abetment of the illegal omission of an act may amount to an offence although the abettor may not himself be bound to do that act.

Explanation 2.—To constitute the offence of abetment it is not necessary that the act abetted should be committed, or that the effect requisite to constitute the offence should be caused.

35

Illustrations.

(a) A instigates B to murder C. B refuses to do so. A is guilty of abetting B to commit murder.

(b) A instigates B to murder D. B in pursuance of the instigation stabs D. D recovers from the wound. A is guilty of instigating B to commit murder.

40

Explanation 3.—It is not necessary that the person abetted should be capable by law of committing an offence, or that he should have the same guilty intention or knowledge as that of the abettor, or any guilty intention or knowledge.

Illustrations.

(a) A, with a guilty intention, abets a child or a person with mental illness to commit an act which would be an offence, if committed by a person capable by law of committing an offence, and having the same intention as A. Here A, whether the act be committed or not, is guilty of abetting an offence. 5

(b) A, with the intention of murdering Z, instigates B, a child under seven years of age, to do an act which causes Z's death. B, in consequence of the abetment, does the act in the absence of A and thereby causes Z's death. Here, though B was not capable by law of committing an offence, A is liable to be punished in the same manner as if B had been capable by law of committing an offence, and had committed murder, and he is therefore subject to the punishment of death. 10

(c) A instigates B to set fire to a dwelling-house. B, in consequence of his mental illness, being incapable of knowing the nature of the act, or that he is doing what is wrong or contrary to law, sets fire to the house in consequence of A's instigation. B has committed no offence, but A is guilty of abetting the offence of setting fire to a dwelling-house, and is liable to the punishment provided for that offence. 15

(d) A, intending to cause a theft to be committed, instigates B to take property belonging to Z out of Z's possession. A induces B to believe that the property belongs to A. B takes the property out of Z's possession, in good faith, believing it to be A's property. B, acting under this misconception, does not take dishonestly, and therefore does not commit theft. But A is guilty of abetting theft, and is liable to the same punishment as if B had committed theft. 20

Explanation 4.—The abetment of an offence being an offence, the abetment of such an abetment is also an offence.

Illustration.

A instigates B to instigate C to murder Z. B accordingly instigates C to murder Z, and C commits that offence in consequence of B's instigation. B is liable to be punished for his offence with the punishment for murder; and, as A instigated B to commit the offence, A is also liable to the same punishment. 25

Explanation 5.—It is not necessary to the commission of the offence of abetment by conspiracy that the abettor should concert the offence with the person who commits it. It is sufficient if he engages in the conspiracy in pursuance of which the offence is committed. 30

Illustration.

A concerts with B a plan for poisoning Z. It is agreed that A shall administer the poison. B then explains the plan to C mentioning that a third person is to administer the poison, but without mentioning A's name. C agrees to procure the poison, and procures and delivers it to B for the purpose of its being used in the manner explained. A administers the poison; Z dies in consequence. Here, though A and C have not conspired together, yet C has been engaged in the conspiracy in pursuance of which Z has been murdered. C has therefore committed the offence defined in this section and is liable to the punishment for murder. 35

Abetment in
India of
offences
outside India.

47. A person abets an offence within the meaning of this Sanhita who, in India, abets the commission of any act without and beyond India which would constitute an offence if committed in India. 40

Illustration.

A, in India, instigates B, a foreigner in country X, to commit a murder in that country, A is guilty of abetting murder. 45

Abetment
outside India
for offence in
India.

48. A person abets an offence within the meaning of this Sanhita who, without and beyond India, abets the commission of any act in India which would constitute an offence if committed in India.

Illustration.

A, in country X, instigates B, to commit a murder in India, A is guilty of abetting murder.

5 **49.** Whoever abets any offence shall, if the act abetted is committed in consequence of the abetment, and no express provision is made by this Sanhita for the punishment of such abetment, be punished with the punishment provided for the offence.

Punishment of abetment if act abetted is committed in consequence and where no express provision is made for its punishment.

Explanation. —An act or offence is said to be committed in consequence of abetment, when it is committed in consequence of the instigation, or in pursuance of the conspiracy, or with the aid which constitutes the abetment.

Illustrations.

10 (a) A instigates B to give false evidence. B, in consequence of the instigation, commits that offence. A is guilty of abetting that offence, and is liable to the same punishment as B.

(b) A and B conspire to poison Z. A, in pursuance of the conspiracy, procures the poison and delivers it to B in order that he may administer it to Z. B, in pursuance of the conspiracy, administers the poison to Z in A's absence and thereby causes Z's death. Here
15 B is guilty of murder. A is guilty of abetting that offence by conspiracy, and is liable to the punishment for murder.

20 **50.** Whoever abets the commission of an offence shall, if the person abetted does the act with a different intention or knowledge from that of the abettor, be punished with the punishment provided for the offence which would have been committed if the act had been done with the intention or knowledge of the abettor and with no other.

Punishment of abetment if person abetted does act with different intention from that of abettor.

51. When an act is abetted and a different act is done, the abettor is liable for the act done, in the same manner and to the same extent as if he had directly abetted it:

25 Provided that the act done was a probable consequence of the abetment, and was committed under the influence of the instigation, or with the aid or in pursuance of the conspiracy which constituted the abetment.

Liability of abettor when one act abetted and different act done.

Illustrations.

30 (a) A instigates a child to put poison into the food of Z, and gives him poison for that purpose. The child, in consequence of the instigation, by mistake puts the poison into the food of Y, which is by the side of that of Z. Here, if the child was acting under the influence of A's instigation, and the act done was under the circumstances a probable consequence of the abetment, A is liable in the same manner and to the same extent as if he had instigated the child to put the poison into the food of Y.

35 (b) A instigates B to burn Z's house, B sets fire to the house and at the same time commits theft of property there. A, though guilty of abetting the burning of the house, is not guilty of abetting the theft; for the theft was a distinct act, and not a probable consequence of the burning.

40 (c) A instigates B and C to break into an inhabited house at midnight for the purpose of robbery, and provides them with arms for that purpose. B and C break into the house, and being resisted by Z, one of the inmates, murder Z. Here, if that murder was the probable consequence of the abetment, A is liable to the punishment provided for murder.

52. If the act for which the abettor is liable under section 51 is committed in addition to the act abetted, and constitute a distinct offence, the abettor is liable to punishment for each of the offences.

Abettor when liable to cumulative punishment for act abetted and for act done.

Illustration.

A instigates B to resist by force a distress made by a public servant. B, in consequence, resists that distress. In offering the resistance, B voluntarily causes grievous hurt to the officer executing the distress. As B has committed both the offence of resisting the distress, and the offence of voluntarily causing grievous hurt, B is liable to punishment for both these offences; and, if A knew that B was likely voluntarily to cause grievous hurt in resisting the distress, A will also be liable to punishment for each of the offences. 5

Liability of abettor for effect caused by act abetted different from that intended by abettor.

53. When an act is abetted with the intention on the part of the abettor of causing a particular effect, and an act for which the abettor is liable in consequence of the abetment, causes a different effect from that intended by the abettor, the abettor is liable for the effect caused, in the same manner and to the same extent as if he had abetted the act with the intention of causing that effect, provided he knew that the act abetted was likely to cause that effect. 10

Illustration.

A instigates B to cause grievous hurt to Z. B, in consequence of the instigation, causes grievous hurt to Z. Z dies in consequence. Here, if A knew that the grievous hurt abetted was likely to cause death, A is liable to be punished with the punishment provided for murder. 15

Abettor present when offence is committed.

54. Whenever any person, who is absent would be liable to be punished as an abettor, is present when the act or offence for which he would be punishable in consequence of the abetment is committed, he shall be deemed to have committed such act or offence. 20

Abetment of offence punishable with death or imprisonment for life.

55. (1) Whoever abets the commission of an offence punishable with death or imprisonment for life, shall, if that offence be not committed in consequence of the abetment, and no express provision is made under this Sanhita for the punishment of such abetment, be punished with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine. 25

(2) If any act for which the abettor is liable in consequence of the abetment, and which causes hurt to any person, is done, the abettor shall be liable to imprisonment of either description for a term which may extend to fourteen years, and shall also be liable to fine.

Illustration.

A instigates B to murder Z. The offence is not committed. If B had murdered Z, he would have been subject to the punishment of death or imprisonment for life. Therefore A is liable to imprisonment for a term which may extend to seven years and also to a fine; and if any hurt be done to Z in consequence of the abetment, he will be liable to imprisonment for a term which may extend to fourteen years, and to fine. 30 35

Abetment of offence punishable with imprisonment.

56. (1) Whoever abets an offence punishable with imprisonment shall, if that offence be not committed in consequence of the abetment, and no express provision is made by this Sanhita for the punishment of such abetment, be punished with imprisonment of any description provided for that offence for a term which may extend to one-fourth part of the longest term provided for that offence; or with such fine as is provided for that offence, or with both. 40

(2) If the abettor or the person abetted is a public servant, whose duty it is to prevent the commission of such offence, the abettor shall be punished with imprisonment of any description provided for that offence, for a term which may extend to one-half of the longest term provided for that offence, or with such fine as is provided for the offence, or with both. 45

Illustrations.

(a) A instigates B to give false evidence. Here, if B does not give false evidence, A has nevertheless committed the offence defined in this section, and is punishable accordingly.

(b) A, a police-officer, whose duty it is to prevent robbery, abets the commission of robbery. Here, though the robbery be not committed, A is liable to one-half of the longest term of imprisonment provided for that offence, and also to fine.

5 (c) B abets the commission of a robbery by A, a police-officer, whose duty it is to prevent that offence. Here, though the robbery be not committed, B is liable to one-half of the longest term of imprisonment provided for the offence of robbery, and also to fine.

57. Whoever abets the commission of an offence by the public generally or by any number or class of persons exceeding ten, shall be punished with imprisonment of either description for a term which may extend to seven years and with fine.

Abetting commission of offence by public or by more than ten persons.

10 *Illustration.*

A affixes in a public place a placard instigating a sect consisting of more than ten members to meet at a certain time and place, for the purpose of attacking the members of an adverse sect, while engaged in a procession. A has committed the offence defined in this section.

15 **58.** Whoever intending to facilitate or knowing it to be likely that he will thereby facilitate the commission of an offence punishable with death or imprisonment for life, voluntarily conceals by any act or illegal omission, or by the use of encryption or any other information hiding tool, the existence of a design to commit such offence or makes any representation which he knows to be false respecting such design shall,—

Concealing design to commit offence punishable with death or imprisonment for life.

20 (a) if that offence be committed, be punished with imprisonment of either description for a term which may extend to seven years; or

(b) if the offence be not committed, with imprisonment of either description, for a term which may extend to three years, and shall also be liable to fine.

25 *Illustration.*

A, knowing that dacoity is about to be committed at B, falsely informs the Magistrate that a dacoity is about to be committed at C, a place in an opposite direction, and thereby misleads the Magistrate with intent to facilitate the commission of the offence. The dacoity is committed at B in pursuance of the design. A is punishable under this section.

30 **59.** Whoever, being a public servant, intending to facilitate or knowing it to be likely that he will thereby facilitate the commission of an offence which it is his duty as such public servant to prevent, voluntarily conceals, by any act or illegal omission or by the use of encryption or any other information hiding tool, the existence of a design to commit such offence, or makes any representation which he knows to be false respecting such design shall,—

Public servant concealing design to commit offence which it is his duty to prevent.

(a) if the offence be committed, be punished with imprisonment of any description provided for the offence, for a term which may extend to one-half of the longest term of such imprisonment, or with such fine as is provided for that offence, or with both; or

40 (b) if the offence be punishable with death or imprisonment for life, with imprisonment of either description for a term which may extend to ten years; or

(c) if the offence be not committed, shall be punished with imprisonment of any description provided for the offence for a term which may extend to one-fourth part of the longest term of such imprisonment or with such fine as is provided for the offence, or with both.

45 *Illustration.*

A, an officer of police, being legally bound to give information of all designs to commit robbery which may come to his knowledge, and knowing that B designs to commit robbery, omits to give such information, with intent to so facilitate the commission of that offence.

Here A has by an illegal omission concealed the existence of B's design, and is liable to punishment according to the provision of this section.

Concealing design to commit offence punishable with imprisonment.

60. Whoever, intending to facilitate or knowing it to be likely that he will thereby facilitate the commission of an offence punishable with imprisonment, voluntarily conceals, by any act or illegal omission, the existence of a design to commit such offence, or makes any representation which he knows to be false respecting such design shall,— 5

(a) if the offence be committed, be punished with imprisonment of the description provided for the offence, for a term which may extend to one-fourth; and

(b) if the offence be not committed, to one-eighth, of the longest term of such imprisonment, or with such fine as is provided for the offence, or with both. 10

Of Criminal conspiracy

Criminal conspiracy.

61. (1) When two or more persons agree to do, or cause to be done—

(a) an illegal act; or

(b) an act which is not illegal by illegal means, such an agreement is designated a criminal conspiracy: 15

Provided that no agreement except an agreement to commit an offence shall amount to a criminal conspiracy unless some act besides the agreement is done by one or more parties to such agreement in pursuance thereof.

Explanation.—It is immaterial whether the illegal act is the ultimate object of such agreement, or is merely incidental to that object. 20

(2) Whoever is a party to a criminal conspiracy,—

(a) to commit an offence punishable with death, imprisonment for life or rigorous imprisonment for a term of two years or upwards, shall, where no express provision is made in this Sanhita for the punishment of such a conspiracy, be punished in the same manner as if he had abetted such offence; 25

(b) other than a criminal conspiracy to commit an offence punishable as aforesaid shall be punished with imprisonment of either description for a term not exceeding six months, or with fine or with both.

Of attempt

Punishment for attempting to commit offences punishable with imprisonment for life or other imprisonment.

62. Whoever attempts to commit an offence punishable by this Sanhita with imprisonment for life or imprisonment, or to cause such an offence to be committed, and in such attempt does any act towards the commission of the offence, shall, where no express provision is made by this Sanhita for the punishment of such attempt, be punished with imprisonment of any description provided for the offence, for a term which may extend to one-half of the imprisonment for life or, as the case may be, one-half of the longest term of imprisonment provided for that offence, or with such fine as is provided for the offence, or with both. 30 35

Illustration.

(a) A makes an attempt to steal some jewels by breaking open a box, and finds after so opening the box, that there is no jewel in it. He has done an act towards the commission of theft, and therefore is guilty under this section. 40

(b) A makes an attempt to pick the pocket of Z by thrusting his hand into Z's pocket. A fails in the attempt in consequence of Z's having nothing in his pocket. A is guilty under this section.

CHAPTER V

OF OFFENCES AGAINST WOMAN AND CHILDREN

Of Sexual offences

63. A man is said to commit “rape” if he—

Rape.

5 (a) penetrates his penis, to any extent, into the vagina, mouth, urethra or anus of a woman or makes her to do so with him or any other person; or

(b) inserts, to any extent, any object or a part of the body, not being the penis, into the vagina, the urethra or anus of a woman or makes her to do so with him or any other person; or

10 (c) manipulates any part of the body of a woman so as to cause penetration into the vagina, urethra, anus or any part of body of such woman or makes her to do so with him or any other person; or

(d) applies his mouth to the vagina, anus, urethra of a woman or makes her to do so with him or any other person,

15 under the circumstances falling under any of the following seven descriptions: —

(i) against her will.

(ii) without her consent.

(iii) with her consent, when her consent has been obtained by putting her or any person in whom she is interested, in fear of death or of hurt.

20 (iv) with her consent, when the man knows that he is not her husband and that her consent is given because she believes that he is another man to whom she is or believes herself to be lawfully married.

25 (v) with her consent when, at the time of giving such consent, by reason of mental illness or intoxication or the administration by him personally or through another of any stupefying or unwholesome substance, she is unable to understand the nature and consequences of that to which she gives consent.

(vi) with or without her consent, when she is under eighteen years of age.

(vii) when she is unable to communicate consent.

30 *Explanation 1.*—For the purposes of this section, “vagina” shall also include *labia majora*.

Explanation 2.—Consent means an unequivocal voluntary agreement when the woman by words, gestures or any form of verbal or non-verbal communication, communicates willingness to participate in the specific sexual act:

35 Provided that a woman who does not physically resist to the act of penetration shall not by the reason only of that fact, be regarded as consenting to the sexual activity.

Exception.1—A medical procedure or intervention shall not constitute rape.

Exception.2—Sexual intercourse or sexual acts by a man with his own wife, the wife not being under eighteen years of age, is not rape.

40 **64.** (1) Whoever, except in the cases provided for in sub-section (2), commits rape, shall be punished with rigorous imprisonment of either description for a term which shall not be less than ten years, but which may extend to imprisonment for life, and shall also be liable to fine. Punishment for rape.

(2) Whoever,—

(a) being a police officer, commits rape,—

(i) within the limits of the police station to which such police officer is appointed; or

(ii) in the premises of any station house; or

(iii) on a woman in such police officer's custody or in the custody of a police officer subordinate to such police officer; or 5

(b) being a public servant, commits rape on a woman in such public servant's custody or in the custody of a public servant subordinate to such public servant; or

(c) being a member of the armed forces deployed in an area by the Central Government or a State Government commits rape in such area; or

(d) being on the management or on the staff of a jail, remand home or other place of custody established by or under any law for the time being in force or of a women's or children's institution, commits rape on any inmate of such jail, remand home, place or institution; or 10

(e) being on the management or on the staff of a hospital, commits rape on a woman in that hospital; or 15

(f) being a relative, guardian or teacher of, or a person in a position of trust or authority towards the woman, commits rape on such woman; or

(g) commits rape during communal or sectarian violence; or

(h) commits rape on a woman knowing her to be pregnant; or

(i) commits rape, on a woman incapable of giving consent; or 20

(j) being in a position of control or dominance over a woman, commits rape on such woman; or

(k) commits rape on a woman suffering from mental illness or physical disability; or

(l) while committing rape causes grievous bodily harm or maims or disfigures or endangers the life of a woman; or 25

(m) commits rape repeatedly on the same woman,

shall be punished with rigorous imprisonment for a term which shall not be less than ten years, but which may extend to imprisonment for life, which shall mean imprisonment for the remainder of that person's natural life, and shall also be liable to fine.

Explanation.—For the purposes of this sub-section,— 30

(a) "armed forces" means the naval, army and air forces and includes any member of the Armed Forces constituted under any law for the time being in force, including the paramilitary forces and any auxiliary forces that are under the control of the Central Government or the State Government;

(b) "hospital" means the precincts of the hospital and includes the precincts of any institution for the reception and treatment of persons during convalescence or of persons requiring medical attention or rehabilitation; 35

(c) "police officer" shall have the same meaning as assigned to the expression "police" under the Police Act, 1861; 5 of 1861.

(d) "women's or children's institution" means an institution, whether called an orphanage or a home for neglected women or children or a widow's home or an institution called by any other name, which is established and maintained for the reception and care of women or children. 40

65. (1) Whoever, commits rape on a woman under sixteen years of age shall be punished with rigorous imprisonment for a term which shall not be less than twenty years, but which may extend to imprisonment for life, which shall mean imprisonment for the remainder of that person’s natural life, and shall also be liable to fine:

Punishment for rape in certain cases.

5 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.

10 (2) Whoever, commits rape on a woman under twelve years of age shall be punished with rigorous imprisonment for a term which shall not be less than twenty years, but which may extend to imprisonment for life, which shall mean imprisonment for the remainder of that person’s natural life, and with fine or with death:

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

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

20 **66.** Whoever, commits an offence punishable under sub-section (1) or sub-section (2) of section 64 and in the course of such commission inflicts an injury which causes the death of the woman or causes the woman to be in a persistent vegetative state, shall be punished with rigorous imprisonment for a term which shall not be less than twenty years, but which may extend to imprisonment for life, which shall mean imprisonment for the remainder of that person’s natural life, or with death.

Punishment for causing death or resulting in persistent vegetative state of victim.

25 **67.** Whoever has sexual intercourse with his own wife, who is living separately, whether under a decree of separation or otherwise, without her consent, shall be punished with imprisonment of either description for a term which shall not be less than two years but which may extend to seven years, and shall also be liable to fine.

Sexual intercourse by husband upon his wife during separation or by person in authority.

Explanation.—In this section, “sexual intercourse” shall mean any of the acts mentioned in clauses (a) to (d) of section 63.

30 **68.** Whoever, being—

Sexual intercourse by person in authority.

 (a) in a position of authority or in a fiduciary relationship; or

 (b) a public servant; or

 (c) superintendent or manager of a jail, remand home or other place of custody established by or under any law for the time being in force, or a women’s or children’s institution; or

35 (d) on the management of a hospital or being on the staff of a hospital, abuses such position or fiduciary relationship to induce or seduce any woman either in his custody or under his charge or present in the premises to have sexual intercourse with him, such sexual intercourse not amounting to the offence of rape,

shall be punished with rigorous imprisonment of either description for a term which shall not be less than five years, but which may extend to ten years, and shall also be liable to fine.

40 *Explanation 1.*—In this section, “sexual intercourse” shall mean any of the acts mentioned in clauses (a) to (d) of section 63.

Explanation 2.—For the purposes of this section, *Explanation 1* to section 63 shall also be applicable.

45 *Explanation 3.* —“Superintendent”, in relation to a jail, remand home or other place of custody or a women’s or children’s institution, includes a person holding any other office in such jail, remand home, place or institution by virtue of which such person can exercise any authority or control over its inmates.

Explanation 4.—The expressions “hospital” and “women’s or children’s institution” shall respectively have the same meaning as in *Explanation* to sub-section (2) of section 64.

Sexual
intercourse
by employing
deceitful
means, etc.

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. 5

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

Gang rape.

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 fine: 10

Provided that such fine shall be just and reasonable to meet the medical expenses and rehabilitation of the victim: 15

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 fine, or with death: 20

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. 25

Punishment
for repeat
offenders.

71. Whoever has been previously convicted of an offence punishable under section 63 or section 64 or section 65 or section 66 or section 67 and is subsequently convicted of an offence punishable under any of the said sections shall be punished with imprisonment for life which shall mean imprisonment for the remainder of that person’s natural life, or with death. 30

Disclosure of
identity of
victim of
certain
offences, etc.

72. (1) Whoever prints or publishes the name or any matter which may make known the identity of any person against whom an offence under section 63 or section 64 or section 65 or section 66 or section 67 or section 68 is alleged or found to have been committed (hereafter in this section referred to as the victim) shall be punished with imprisonment of either description for a term which may extend to two years and shall also be liable to fine. 35

(2) Nothing in sub-section (1) extends to any printing or publication of the name or any matter which may make known the identity of the victim if such printing or publication is—

(a) by or under the order in writing of the officer-in-charge of the police station or the police officer making the investigation into such offence acting in good faith for the purposes of such investigation; or 40

(b) by, or with the authorisation in writing of, the victim; or

(c) where the victim is dead or minor or person with mental illness, by, or with the authorisation in writing of, the next of kin of the victim: 45

Provided that no such authorisation shall be given by the next of kin to anybody other than the chairman or the secretary, by whatever name called, of any recognised welfare institution or organisation.

Explanation.—For the purposes of this sub-section, “recognised welfare institution or organisation” means a social welfare institution or organisation recognised in this behalf by the Central Government or State Government.

(3) Whoever prints or publishes any matter in relation to any proceeding before a court with respect to an offence referred to in sub-section (1) without the previous permission of such court shall be punished with imprisonment of either description for a term which may extend to two years and shall also be liable to fine.

Explanation.—The printing or publication of the judgment of any High Court or the Supreme Court does not amount to an offence within the meaning of this section.

10 *Of criminal force and assault against women*

73. Whoever assaults or uses criminal force to any woman, intending to outrage or knowing it to be likely that he will there by outrage her modesty, shall be punished with imprisonment of either description for a term which shall not be less than one year but which may extend to five years, and shall also be liable to fine.

Assault or criminal force to woman with intent to outrage her modesty.

15 **74.** (1) A man committing any of the following acts—

(i) physical contact and advances involving unwelcome and explicit sexual overtures; or

(ii) a demand or request for sexual favours; or

(iii) showing pornography against the will of a woman; or

20 (iv) making sexually coloured remarks,

shall be guilty of the offence of sexual harassment.

Sexual harassment and punishment for sexual harassment.

(2) Any man who commits the offence specified in clause (i) or clause (ii) or clause (iii) of sub-section (1) shall be punished with rigorous imprisonment for a term which may extend to three years, or with fine, or with both.

25 (3) Any man who commits the offence specified in clause (iv) of sub-section (1) shall be punished with imprisonment of either description for a term which may extend to one year, or with fine, or with both.

75. Whoever assaults or uses criminal force to any woman or abets such act with the intention of disrobing or compelling her to be naked, shall be punished with imprisonment of either description for a term which shall not be less than three years but which may extend to seven years, and shall also be liable to fine.

Assault or use of criminal force to woman with intent to disrobe.

76. Whoever watches, or captures the image of a woman engaging in a private act in circumstances where she would usually have the expectation of not being observed either by the perpetrator or by any other person at the behest of the perpetrator or disseminates such image shall be punished on first conviction with imprisonment of either description for a term which shall not be less than one year, but which may extend to three years, and shall also be liable to fine, and be punished on a second or subsequent conviction, with imprisonment of either description for a term which shall not be less than three years, but which may extend to seven years, and shall also be liable to fine.

Voyeurism.

40 *Explanation 1.*—For the purpose of this section, “private act” includes an act of watching carried out in a place which, in the circumstances, would reasonably be expected to provide privacy and where the victim’s genitals, posterior or breasts are exposed or covered only in underwear; or the victim is using a lavatory; or the victim is doing a sexual act that is not of a kind ordinarily done in public.

45 *Explanation 2.*—Where the victim consents to the capture of the images or any act, but not to their dissemination to third persons and where such image or act is disseminated, such dissemination shall be considered an offence under this section.

Stalking.

77. (1) Any man who—

(i) follows a woman and contacts, or attempts to contact such woman to foster personal interaction repeatedly despite a clear indication of disinterest by such woman; or

(ii) monitors the use by a woman of the internet, e-mail or any other form of electronic communication,

5

commits the offence of stalking:

Provided that such conduct shall not amount to stalking if the man who pursued it proves that—

(i) it was pursued for the purpose of preventing or detecting crime and the man accused of stalking had been entrusted with the responsibility of prevention and detection of crime by the State; or

10

(ii) it was pursued under any law or to comply with any condition or requirement imposed by any person under any law; or

(iii) in the particular circumstances such conduct was reasonable and justified.

(2) Whoever commits the offence of stalking shall be punished on first conviction with imprisonment of either description for a term which may extend to three years, and shall also be liable to fine; and be punished on a second or subsequent conviction, with imprisonment of either description for a term which may extend to five years, and shall also be liable to fine.

15

Word, gesture or act intended to insult modesty of woman.

78. Whoever, intending to insult the modesty of any woman, utters any words, makes any sound or gesture, or exhibits any object in any form, intending that such word or sound shall be heard, or that such gesture or object shall be seen, by such woman, or intrudes upon the privacy of such woman, shall be punished with simple imprisonment for a term which may extend to three years, and also with fine.

20

Of offences relating to marriage

Dowry death.

79. (1) Where the death of a woman is caused by any burns or bodily injury or occurs otherwise than under normal circumstances within seven years of her marriage and it is shown that soon before her death she was subjected to cruelty or harassment by her husband or any relative of her husband for, or in connection with, any demand for dowry, such death shall be called “dowry death”, and such husband or relative shall be deemed to have caused her death.

25

30

Explanation.—For the purposes of this sub-section, “dowry” shall have the same meaning as in section 2 of the Dowry Prohibition Act, 1961.

28 of 1961.

(2) Whoever commits dowry death shall be punished with imprisonment for a term which shall not be less than seven years but which may extend to imprisonment for life.

Cohabitation caused by man deceitfully inducing belief of lawful marriage.

80. Every man who by deceit causes any woman who is not lawfully married to him to believe that she is lawfully married to him and to cohabit or have sexual intercourse with him in that belief, shall be punished with imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine.

35

Marrying again during lifetime of husband or wife.

81. (1) Whoever, having a husband or wife living, marries in any case in which such marriage is void by reason of its taking place during the life of such husband or wife, shall be punished with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine.

40

Exception.—This sub-section does not extend to any person whose marriage with such husband or wife has been declared void by a Court of competent jurisdiction, nor to any person who contracts a marriage during the life of a former husband or wife, if such husband or wife, at the time of the subsequent marriage, shall have been continually absent

45

from such person for the space of seven years, and shall not have been heard of by such person as being alive within that time provided the person contracting such subsequent marriage shall, before such marriage takes place, inform the person with whom such marriage is contracted of the real state of facts so far as the same are within his or her knowledge.

5 (2) Whoever commits the offence under sub-section (1) having concealed from the person with whom the subsequent marriage is contracted, the fact of the former marriage, shall be punished with imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine.

10 **82.** Whoever, dishonestly or with a fraudulent intention, goes through the ceremony of being married, knowing that he is not thereby lawfully married, shall be punished with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine.

Marriage ceremony fraudulently gone through without lawful marriage.

15 **83.** Whoever takes or entices away any woman who is and whom he knows or has reason to believe to be the wife of any other man, with intent that she may have illicit intercourse with any person, or conceals or detains with that intent any such woman, shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both.

Enticing or taking away or detaining with criminal intent married woman.

20 **84.** Whoever, being the husband or the relative of the husband of a woman, subjects such woman to cruelty shall be punished with imprisonment for a term which may extend to three years and shall also be liable to fine.

Husband or relative of husband of woman subjecting her to cruelty.

Explanation.—For the purposes of this section, “cruelty” means—

(a) any wilful conduct which is of such a nature as is likely to drive the woman to commit suicide or to cause grave injury or danger to life, limb or health (whether mental or physical) of the woman; or

25 (b) harassment of the woman where such harassment is with a view to coercing her or any person related to her to meet any unlawful demand for any property or valuable security or is on account of failure by her or any person related to her to meet such demand.

30 **85.** Whoever kidnaps or abducts any woman with intent that she may be compelled, or knowing it to be likely that she will be compelled, to marry any person against her will, or in order that she may be forced or seduced to illicit intercourse, or knowing it to be likely that she will be forced or seduced to illicit intercourse, shall be punished with imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine; and whoever, by means of criminal intimidation as defined in this Sanhita or of abuse of authority or any other method of compulsion, induces any woman to go from any place with intent that she may be, or knowing that it is likely that she will be, forced or seduced to illicit intercourse with another person shall also be punishable as aforesaid.

Kidnapping, abducting or inducing woman to compel her marriage, etc.

Of the causing of miscarriage, etc.

40 **86.** Whoever voluntarily causes a woman with child to miscarry, shall, if such miscarriage be not caused in good faith for the purpose of saving the life of the woman, be punished with imprisonment of either description for a term which may extend to three years, or with fine, or with both; and, if the woman be quick with child, shall be punished with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine.

Causing miscarriage.

Explanation.—A woman who causes herself to miscarry, is within the meaning of this section.

45 **87.** Whoever commits the offence under section 86 without the consent of the woman, whether the woman is quick with child or not, shall be punished with imprisonment for life, or with imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine.

Causing miscarriage without woman's consent.

Death caused by act done with intent to cause miscarriage.

88. (1) Whoever, with intent to cause the miscarriage of a woman with child, does any act which causes the death of such woman, shall be punished with imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine.

(2) Where the act referred to in sub-section (1) is done without the consent of the woman, shall be punishable either with imprisonment for life, or with the punishment specified in said sub-section. 5

Explanation.—It is not essential to this offence that the offender should know that the act is likely to cause death.

Act done with intent to prevent child being born alive or to cause it to die after birth.

89. Whoever before the birth of any child does any act with the intention of thereby preventing that child from being born alive or causing it to die after its birth, and does by such act prevent that child from being born alive, or causes it to die after its birth, shall, if such act be not caused in good faith for the purpose of saving the life of the mother, be punished with imprisonment of either description for a term which may extend to ten years, or with fine, or with both. 10

Causing death of quick unborn child by act amounting to culpable homicide.

90. Whoever does any act under such circumstances, that if he thereby caused death he would be guilty of culpable homicide, and does by such act cause the death of a quick unborn child, shall be punished with imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine. 15

Illustration.

A, knowing that he is likely to cause the death of a pregnant woman, does an act which, if it caused the death of the woman, would amount to culpable homicide. The woman is injured, but does not die; but the death of an unborn quick child with which she is pregnant is thereby caused. A is guilty of the offence defined in this section. 20

Of offences against children

Exposure and abandonment of child under twelve years, by parent or person having care of it.

91. Whoever being the father or mother of a child under the age of twelve years, or having the care of such child, shall expose or leave such child in any place with the intention of wholly abandoning such child, shall be punished with imprisonment of either description for a term which may extend to seven years, or with fine, or with both. 25

Explanation.—This section is not intended to prevent the trial of the offender for murder or culpable homicide, as the case may be, if the child die in consequence of the exposure. 30

Concealment of birth by secret disposal of dead body.

92. Whoever, by secretly burying or otherwise disposing of the dead body of a child whether such child die before or after or during its birth, intentionally conceals or endeavours to conceal the birth of such child, shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both. 35

Hiring, employing or engaging a child to commit an offence.

93. Whoever hires, employs or engages any person below the age of eighteen years to commit an offence shall be punished with imprisonment of either description or fine provided for that offence as if the offence has been committed by such person himself.

Explanation.—Hiring, employing, engaging or using a child for sexual exploitation or pornography is covered within the meaning of this section. 40

Procuration of child.

94. Whoever, by any means whatsoever, induces any child below the age of eighteen years to go from any place or to do any act with intent that such child below the age of eighteen years may be, or knowing that it is likely that such child will be, forced or seduced to illicit intercourse with another person shall be punishable with imprisonment which may extend to ten years, and shall also be liable to fine. 45

Kidnapping or abducting child under ten years with intent to steal from its person.

95. Whoever kidnaps or abducts any child under the age of ten years with the intention of taking dishonestly any movable property from the person of such child, 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 **96.** Whoever sells, lets to hire, or otherwise disposes of child below eighteen years of age with intent that such child shall at any age be employed or used for the purpose of prostitution or illicit intercourse with any person or for any unlawful and immoral purpose, or knowing it to be likely that such person will at any age be employed or used for any such purpose, shall be punished with imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine.

Selling child for purposes of prostitution, etc.

10 *Explanation 1.*—When a female under the age of eighteen years is sold, let for hire, or otherwise disposed of to a prostitute or to any person who keeps or manages a brothel, the person so disposing of such female shall, until the contrary is proved, be presumed to have disposed of her with the intent that she shall be used for the purpose of prostitution.

15 *Explanation 2.*—For the purposes of this section “illicit intercourse” means sexual intercourse between persons not united by marriage or by any union or tie which, though not amounting to a marriage, is recognised by the personal law or custom of the community to which they belong or, where they belong to different communities, of both such communities, as constituting between them a *quasi*-marital relation.

20 **97.** Whoever buys, hires or otherwise obtains possession of any child below the age of eighteen years with intent that such person shall at any age be employed or used for the purpose of prostitution or illicit intercourse with any person or for any unlawful and immoral purpose, or knowing it to be likely that such child will at any age be employed or used for any such purpose, shall be punished with imprisonment of either description for a term which shall not be less than seven years but which may extend to fourteen years, and shall also be liable to fine.

Buying child for purposes of prostitution, etc.

25 *Explanation 1.*—Any prostitute or any person keeping or managing a brothel, who buys, hires or otherwise obtains possession of a female under the age of eighteen years shall, until the contrary is proved, be presumed to have obtained possession of such female with the intent that she shall be used for the purpose of prostitution.

Explanation 2.—“Illicit intercourse” has the same meaning as in section 96.

CHAPTER VI

OF OFFENCES AFFECTING THE HUMAN BODY

30 *Of offences affecting life*

98. Whoever causes death by doing an act with the intention of causing death, or with the intention of causing such bodily injury as is likely to cause death, or with the knowledge that he is likely by such act to cause death, commits the offence of culpable homicide.

Culpable homicide.

35 *Illustrations.*

(a) A lays sticks and turf over a pit, with the intention of thereby causing death, or with the knowledge that death is likely to be thereby caused. Z, believing the ground to be firm, treads on it, falls in and is killed. A has committed the offence of culpable homicide.

40 (b) A knows Z to be behind a bush. B does not know it. A, intending to cause, or knowing it to be likely to cause Z’s death, induces B to fire at the bush. B fires and kills Z. Here B may be guilty of no offence; but A has committed the offence of culpable homicide.

45 (c) A, by shooting at a fowl with intent to kill and steal it, kills B, who is behind a bush; A not knowing that he was there. Here, although A was doing an unlawful act, he was not guilty of culpable homicide, as he did not intend to kill B, or to cause death by doing an act that he knew was likely to cause death.

Explanation 1.—A person who causes bodily injury to another who is labouring under a disorder, disease or bodily infirmity, and thereby accelerates the death of that other, shall be deemed to have caused his death.

Explanation 2.—Where death is caused by bodily injury, the person who causes such bodily injury shall be deemed to have caused the death, although by resorting to proper remedies and skilful treatment the death might have been prevented.

Explanation 3.—The causing of the death of a child in the mother's womb is not homicide. But it may amount to culpable homicide to cause the death of a living child, if any part of that child has been brought forth, though the child may not have breathed or been completely born.

Murder.

99. Except in the cases hereinafter excepted, culpable homicide is murder,—

(a) if the act by which the death is caused is done with the intention of causing death; or

(b) if the act by which the death is caused is done with the intention of causing such bodily injury as the offender knows to be likely to cause the death of the person to whom the harm is caused; or

(c) if the act by which the death is caused is done with the intention of causing bodily injury to any person and the bodily injury intended to be inflicted is sufficient in the ordinary course of nature to cause death; or

(d) if the person committing the act by which the death is caused, knows that it is so imminently dangerous that it must, in all probability, cause death, or such bodily injury as is likely to cause death, and commits such act without any excuse for incurring the risk of causing death or such injury as aforesaid.

Illustrations.

(a) A shoots Z with the intention of killing him. Z dies in consequence. A commits murder.

(b) A, knowing that Z is labouring under such a disease that a blow is likely to cause his death, strikes him with the intention of causing bodily injury. Z dies in consequence of the blow. A is guilty of murder, although the blow might not have been sufficient in the ordinary course of nature to cause the death of a person in a sound state of health. But if A, not knowing that Z is labouring under any disease, gives him such a blow as would not in the ordinary course of nature kill a person in a sound state of health, here A, although he may intend to cause bodily injury, is not guilty of murder, if he did not intend to cause death, or such bodily injury as in the ordinary course of nature would cause death.

(c) A intentionally gives Z a sword-cut or club-wound sufficient to cause the death of a man in the ordinary course of nature. Z dies in consequence. Here A is guilty of murder, although he may not have intended to cause Z's death.

(d) A without any excuse fires a loaded cannon into a crowd of persons and kills one of them. A is guilty of murder, although he may not have had a premeditated design to kill any particular individual.

Exception 1.—Culpable homicide is not murder if the offender, whilst deprived of the power of self-control by grave and sudden provocation, causes the death of the person who gave the provocation or causes the death of any other person by mistake or accident:

Provided that the provocation is not,—

(a) sought or voluntarily provoked by the offender as an excuse for killing or doing harm to any person;

(b) given by anything done in obedience to the law, or by a public servant in the lawful exercise of the powers of such public servant;

(c) given by anything done in the lawful exercise of the right of private defence.

Explanation.—Whether the provocation was grave and sudden enough to prevent the offence from amounting to murder is a question of fact.

Illustrations.

(a) A, under the influence of passion excited by a provocation given by Z, intentionally kills Y, Z's child. This is murder, in as much as the provocation was not given by the child, and the death of the child was not caused by accident or misfortune in doing an act caused by the provocation.

(b) Y gives grave and sudden provocation to A. A, on this provocation, fires a pistol at Y, neither intending nor knowing himself to be likely to kill Z, who is near him, but out of sight. A kills Z. Here A has not committed murder, but merely culpable homicide.

(c) A is lawfully arrested by Z, a bailiff. A is excited to sudden and violent passion by the arrest, and kills Z. This is murder, in as much as the provocation was given by a thing done by a public servant in the exercise of his powers.

(d) A appears as a witness before Z, a Magistrate. Z says that he does not believe a word of A's deposition, and that A has perjured himself. A is moved to sudden passion by these words, and kills Z. This is murder.

(e) A attempts to pull Z's nose. Z, in the exercise of the right of private defence, lays hold of A to prevent him from doing so. A is moved to sudden and violent passion in consequence, and kills Z. This is murder, in as much as the provocation was giving by a thing done in the exercise of the right of private defence.

(f) Z strikes B. B is by this provocation excited to violent rage. A, a bystander, intending to take advantage of B's rage, and to cause him to kill Z, puts a knife into B's hand for that purpose. B kills Z with the knife. Here B may have committed only culpable homicide, but A is guilty of murder.

Exception 2.—Culpable homicide is not murder if the offender in the exercise in good faith of the right of private defence of person or property, exceeds the power given to him by law and causes the death of the person against whom he is exercising such right of defence without premeditation, and without any intention of doing more harm than is necessary for the purpose of such defence.

Illustration.

Z attempts to horsewhip A, not in such a manner as to cause grievous hurt to A. A draws out a pistol. Z persists in the assault. A believing in good faith that he can by no other means prevent himself from being horsewhipped, shoots Z dead. A has not committed murder, but only culpable homicide.

Exception 3.—Culpable homicide is not murder if the offender, being a public servant or aiding a public servant acting for the advancement of public justice, exceeds the powers given to him by law, and causes death by doing an act which he, in good faith, believes to be lawful and necessary for the due discharge of his duty as such public servant and without ill-will towards the person whose death is caused.

Exception 4.—Culpable homicide is not murder if it is committed without premeditation in a sudden fight in the heat of passion upon a sudden quarrel and without the offender's having taken undue advantage or acted in a cruel or unusual manner.

Explanation.—It is immaterial in such cases which party offers the provocation or commits the first assault.

Exception 5.—Culpable homicide is not murder when the person whose death is caused, being above the age of eighteen years, suffers death or takes the risk of death with his own consent.

Illustration.

A, by instigation, voluntarily causes Z, a person under eighteen years of age to commit suicide. Here, on account of Z's youth, he was incapable of giving consent to his own death; A has therefore abetted murder.

Culpable homicide by causing death of person other than person whose death was intended. **100.** If a person, by doing anything which he intends or knows to be likely to cause death, commits culpable homicide by causing the death of any person, whose death he neither intends nor knows himself to be likely to cause, the culpable homicide committed by the offender is of the description of which it would have been if he had caused the death of the person whose death he intended or knew himself to be likely to cause. 5

Punishment for murder. **101.** (1) Whoever commits murder shall be punished with death or imprisonment for life, and shall also be liable to fine.
(2) 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. 10

Punishment for murder by life-convict. **102.** Whoever, being under sentence of imprisonment for life, commits murder, shall be punished with death or with imprisonment for life, which shall mean the remainder of that person's natural life. 15

Punishment for culpable homicide not amounting to murder. **103.** Whoever commits culpable homicide not amounting to murder, shall be punished with imprisonment for life, or imprisonment of either description for a term which shall not be less than five years but which may extend to ten years, and shall also be liable to fine, if the act by which the death is caused is done with the intention of causing death, or of causing such bodily injury as is likely to cause death; or with imprisonment of either description for a term which may extend to ten years and with fine, if the act is done with the knowledge that it is likely to cause death, but without any intention to cause death, or to cause such bodily injury as is likely to cause death. 20

Causing death by negligence. **104.** (1) Whoever causes the death of any person by doing any rash or negligent act not amounting to culpable homicide, shall be punished with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine. 25
(2) Whoever causes death of any person by doing any rash or negligent act not amounting to culpable homicide and escapes from the scene of incident or fails to report the incident to a Police officer or Magistrate soon after the incident, shall be punished with imprisonment of either description of a term which may extend to ten years, and shall also be liable to fine. 30

Abetment of suicide of child or person with mental illness. **105.** If any person under eighteen years of age, any person with mental illness, any delirious person or any person in a state of intoxication, commits suicide, whoever abets the commission of such suicide, shall be punished with death or imprisonment for life, or imprisonment for a term not exceeding ten years, and shall also be liable to fine. 35

Abetment of suicide. **106.** If any person commits suicide, whoever abets the commission of such suicide, shall be punished with imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine.

Attempt to murder. **107.** (1) Whoever does any act with such intention or knowledge, and under such circumstances that, if he by that act caused death, he would be guilty of murder, shall be punished with imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine; and if hurt is caused to any person by such act, the offender shall be liable either to imprisonment for life, or to such punishment as is hereinbefore mentioned. 40

(2) When any person offending under sub-section (1) is under sentence of imprisonment for life, he may, if hurt is caused, be punished with death or with imprisonment for life, which shall mean the remainder of that person's natural life. 45

Illustrations.

(a) A shoots at Z with intention to kill him, under such circumstances that, if death ensued A would be guilty of murder. A is liable to punishment under this section.

5 (b) A, with the intention of causing the death of a child of tender years, exposes it in a desert place. A has committed the offence defined by this section, though the death of the child does not ensue.

(c) A, intending to murder Z, buys a gun and loads it. A has not yet committed the offence. A fires the gun at Z. He has committed the offence defined in this section, and, if by such firing he wounds Z, he is liable to the punishment provided by the latter part of the first
10 paragraph of this section.

(d) A, intending to murder Z by poison, purchases poison and mixes the same with food which remains in A's keeping; A has not yet committed the offence defined in this section. A places the food on Z's table or delivers it to Z's servants to place it on Z's table. A has committed the offence defined in this section.

15 **108.** Whoever does any act with such intention or knowledge and under such circumstances that, if he by that act caused death, he would be guilty of culpable homicide not amounting to murder, shall be punished with imprisonment of either description for a term which may extend to three years, or with fine, or with both; and, if hurt is caused to any person by such act, shall be punished with imprisonment of either description for a term
20 which may extend to seven years, or with fine, or with both.

Attempt to
commit
culpable
homicide.

Illustration.

A, on grave and sudden provocation, fires a pistol at Z, under such circumstances that if he thereby caused death he would be guilty of culpable homicide not amounting to murder. A has committed the offence defined in this section.

25 **109. (1)** Any continuing unlawful activity including kidnapping, robbery, vehicle theft, extortion, land grabbing, contract killing, economic offences, cyber-crimes having severe consequences, trafficking in people, drugs, illicit goods or services and weapons, human trafficking racket for prostitution or ransom by the effort of groups of individuals acting in concert, singly or jointly, either as a member of an organised crime syndicate or on behalf of
30 such syndicate, by use of violence, threat of violence, intimidation, coercion, corruption or related activities or other unlawful means to obtain direct or indirect, material benefit including a financial benefit, shall constitute organised crime.

Organised
crime.

Explanation.—For the purposes of this sub-section,—

35 (i) “benefit” includes property, advantage, service, entertainment, the use of or access to property or facilities, and anything of benefit to a person whether or not it has any inherent or tangible value, purpose or attribute;

(ii) “organised crime syndicate” means a criminal organisation or group of three or more persons who, acting either singly or collectively in concert, as a syndicate, gang, mafia, or (crime) ring indulging in commission of one or more serious offences or
40 involved in gang criminality, racketeering, and syndicated organised crime;

(iii) “continuing unlawful activity” means an activity prohibited by law, which is a cognizable offence undertaken either singly or jointly, as a member of an organised crime syndicate or on behalf of such syndicate in respect of which more than one charge-sheets have been filed before a competent court within the preceding period of
45 ten years and that court has taken cognizance of such offence;

(iv) “economic offences” include criminal breach of trust; forgery, counterfeiting of currency and valuable securities, financial scams, running Ponzi schemes, mass-marketing fraud or multi-level marketing schemes with a view to defraud the people at large for obtaining the monetary benefits or large scale organised betting in
50 any form, offences of money laundering and *hawala* transactions.

(2) Whoever, attempts to commit or commits an offence of organised crime shall,—

(i) if such offence has resulted in the death of any person, be punishable with death or imprisonment for life and shall also be liable to fine which shall not be less than rupees ten lakhs;

(ii) in any other case, be punishable with imprisonment for a term which shall not be less than five years but which may extend to imprisonment for life and shall also be liable to fine which shall not be less than rupees five lakhs.

(3) Whoever, conspires or organises the commission of an organised crime, or assists, facilitates or otherwise engages in any act preparatory to an organised crime, shall be punishable with imprisonment for a term which shall not be less than five years but which may extend to imprisonment for life and shall also be liable to fine which shall not be less than rupees five lakhs.

(4) Any person who is a member of an organised crime syndicate shall be punishable with imprisonment for a term which shall not be less than five years but which may extend to imprisonment for life and shall also be liable to fine which shall not be less than rupees five lakhs.

(5) Whoever, intentionally harbours or conceals or attempts to harbour or conceal any person who has committed the offence of an organised crime or any member of an organised crime syndicate or believes that his act will encourage or assist the doing of such crime shall be punishable with imprisonment for a term which shall not be less than three years but which may extend to imprisonment for life and shall also be liable to fine which shall not be less than rupees five lakhs:

Provided that this sub-section shall not apply to any case in which the harbour or concealment is by the spouse of the offender.

(6) Whoever, holds any property derived, or obtained from the commission of an organised crime or proceeds of any organised crime or which has been acquired through the organised crime syndicate funds shall be punishable with imprisonment for a term which shall not be less than three years but which may extend to imprisonment for life and shall also be liable to fine which shall not be less than rupees two lakhs.

(7) If any person on behalf of a member of an organised crime syndicate is, or at any time has been in possession of movable or immovable property which he cannot satisfactorily account for, shall be punishable with imprisonment for a term which shall not be less than three years but which may extend to imprisonment for ten years and shall also be liable to fine which shall not be less than rupees one lakh and such property shall also be liable for attachment and forfeiture.

Explanation.— For the purposes of this section, “proceeds of any organised crime” means all kind of properties which have been derived or obtained from commission of any organised crime or have acquired through funds traceable to any organised crime and shall include cash, irrespective of person in whose name such proceeds are standing or in whose possession they are found.

110. (1) Any crime that causes general feelings of insecurity among citizens relating to theft of vehicle or theft from vehicle, domestic and business theft, trick theft, cargo crime, theft (attempt to theft, theft of personal property), organised pick pocketing, snatching, theft through shoplifting or card skimming and Automated Teller Machine thefts or procuring money in unlawful manner in public transport system or illegal selling of tickets and selling of public examination question papers and such other common forms of organised crime committed by organised criminal groups or gangs, shall constitute petty organised crimes and shall include the said crimes when committed by mobile organised crime groups or gangs that create network of contacts, anchor points, and logistical support among themselves to carry out number of offences in region over a period before moving on.

(2) Whoever commits or attempts to commit any petty organised crime, under sub-section (1) shall be punished with imprisonment for a term which shall not be less than one year but which may extend to seven years, and shall also be liable to fine.

Petty organised crime or organised crime in general.

111. (1) A person is said to have committed a terrorist act if he commits any act in India or in any foreign country with the intention to threaten the unity, integrity and security of India, to intimidate the general public or a segment thereof, or to disturb public order by doing an act,—

Offence if
terrorist act.

5 (i) using bombs, dynamite or any other explosive substance or inflammable material or firearms or other lethal weapons or poison or noxious gases or other chemicals or any other substance (whether biological or otherwise) hazardous in nature in such a manner so as to create an atmosphere or spread a message of fear, to cause death or serious bodily harm to any person, or endangers a person's life;

10 (ii) to cause damage or loss due to damage or destruction of property or disruption of any supplies or services essential to the life of the community, destruction of a Government or public facility, public place or private property;

(iii) to cause extensive interference with, damage or destruction to critical infrastructure;

15 (iv) to provoke or influence by intimidation the Government or its organisation, in such a manner so as to cause or likely to cause death or injury to any public functionary or any person or an act of detaining any person and threatening to kill or injure such person in order to compel the Government to do or abstain from doing any act, or destabilise or destroy the political, economic, or social structures of the country, or create a public emergency or undermine public safety;

20 (v) included within the scope of any of the Treaties listed in the Second Schedule to the Unlawful Activities (Prevention) Act, 1967.

37 of 1967.

(2) Whoever, attempts to commit or commits an offence of terrorist act shall,—

25 (i) if such offence has resulted in the death of any person, be punishable with death or imprisonment for life without the benefit of parole, and shall also be liable to fine which shall not be less than rupees ten lakhs;

(ii) in any other case, be punishable with imprisonment for a term which shall not be less than five years but which may extend to imprisonment for life, and shall also be liable to fine which shall not be less than rupees five lakhs.

30 (3) Whoever, conspires, organises or causes to be organised any organisation, association or a group of persons for terrorist acts, or assists, facilitates or otherwise conspires to engage in any act preparatory to any terrorist act, shall be punishable with imprisonment for a term which shall not be less than five years but which may extend to imprisonment for life, and shall also be liable to fine which shall not be less than rupees five lakhs.

35 (4) Any person, who is a member of terrorist organisation, which is involved in terrorist act, shall be punishable with imprisonment for a term which may extend to imprisonment for life, and shall also be liable to fine which shall not be less than rupees five lakhs.

40 (5) Whoever, intentionally harbours or conceals or attempts to harbour or conceal any person who has committed an offence of any terrorist act shall be punishable with imprisonment for a term which shall not be less than three years but which may extend to imprisonment for life, and shall also be liable to fine which shall not be less than rupees five lakh:

Provided that this sub-section shall not apply to any case in which the harbour or concealment is by the spouse of the offender.

45 (6) Whoever, holds any property directly or indirectly, derived or obtained from commission of terrorist act or proceeds of terrorism, or acquired through the terrorist fund, or possesses, provides, collects or uses property or funds or makes available property, funds or financial service or other related services, by any means, to be used, in full or in part to

carry out or facilitate the commission of any terrorist act, shall be punishable with imprisonment for a term which may extend to imprisonment for life and shall also be liable to fine which shall not be less than rupees five lakhs and such property shall also be liable for attachment and forfeiture.

Explanation.— For the purposes of this section,—

(a) “terrorist” refers to any person who—

(i) develops, manufactures, possesses, acquires, transports, supplies or uses weapons, explosives, or releases nuclear, radiological or other dangerous substance, or cause fire, floods or explosions;

(ii) commits, or attempts, or conspires to commit terrorist acts by any means, directly or indirectly;

(iii) participates, as a principal or as an accomplice, in terrorist acts;

(b) the expression “proceeds of terrorism” shall have the same meaning as assigned to it in clause (g) of section 2 of the Unlawful Activities (Prevention) Act, 1967;

(c) “terrorist organisation, association or a group of persons” refers to any entity owned or controlled by any terrorist or group of terrorists that—

(i) commits, or attempts to commit, terrorist acts by any means, directly or indirectly;—

(ii) participates in acts of terrorism;—

(iii) prepares for terrorism;—

(iv) promotes terrorism;—

(v) organises or directs others to commit terrorism;—

(vi) contributes to the commission of terrorist acts by a group of persons acting with common purpose of furthering the terrorist act where the contribution is made intentionally and with the aim of furthering the terrorist act or with the knowledge of the intention of the group to commit a terrorist act; or

(vii) is otherwise involved in terrorism; or

(viii) any organisation listed in the First Schedule to the Unlawful Activities (Prevention) Act, 1967 or an organisation operating under the same name as an organisation so listed.

Of hurt

Hurt. **112.** Whoever causes bodily pain, disease or infirmity to any person is said to cause hurt.

Voluntarily causing hurt. **113.** (1) Whoever does any act with the intention of thereby causing hurt to any person, or with the knowledge that he is likely thereby to cause hurt to any person, and does thereby cause hurt to any person, is said “voluntarily to cause hurt”.

(2) Whoever, except in the case provided for by sub-section (1) of section 120 voluntarily causes hurt, shall be punished with imprisonment of either description for a term which may extend to one year, or with fine which may extend to ten thousand rupees, or with both.

Grievous hurt. **114.** The following kinds of hurt only are designated as “grievous”, namely:—

(a) Emasculation.

(b) Permanent privation of the sight of either eye.

(c) Permanent privation of the hearing of either ear.

(d) Privation of any member or joint.

(e) Destruction or permanent impairing of the powers of any member or joint.

(f) Permanent disfiguration of the head or face.

(g) Fracture or dislocation of a bone or tooth.

(h) Any hurt which endangers life or which causes the sufferer to be during the space of fifteen days in severe bodily pain, or unable to follow his ordinary pursuits.

Voluntarily causing grievous hurt. **115.** (1) Whoever voluntarily causes hurt, if the hurt which he intends to cause or knows himself to be likely to cause is grievous hurt, and if the hurt which he causes is grievous hurt, is said “voluntarily to cause grievous hurt”.

(2) Whoever, except in the case provided for by sub-section (3), voluntarily causes grievous hurt, shall be punished with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine.

Explanation.—A person is not said voluntarily to cause grievous hurt except when he both causes grievous hurt and intends or knows himself to be likely to cause grievous hurt. But he is said voluntarily to cause grievous hurt, if intending or knowing himself to be likely to cause grievous hurt of one kind, he actually causes grievous hurt of another kind.

Illustration.

A, intending of knowing himself to be likely permanently to disfigure Z's face, gives Z a blow which does not permanently disfigure Z's face, but which causes Z to suffer severe bodily pain for the space of fifteen days. A has voluntarily caused grievous hurt.

(3) Whoever commits an offence under sub-section (1) and in the course of such commission causes any hurt to a person which causes that person to be in permanent disability or in persistent vegetative state, shall be punished with rigorous imprisonment for a term which shall not be less than ten years but which may extend to imprisonment for life, which shall mean imprisonment for the remainder of that person's natural life.

(4) When grievous hurt of a person is caused by a group of five or more persons on the ground of his, race, caste, sex, place of birth, language, personal belief or any other ground, each member of such group shall be guilty of the offence of causing grievous hurt, and shall be punished with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine.

116. (1) Whoever, except in the case provided for by sub-section (1) of section 120, voluntarily causes hurt by means of any instrument for shooting, stabbing or cutting, or any instrument which, used as a weapon of offence, is likely to cause death, or by means of fire or any heated substance, or by means of any poison or any corrosive substance, or by means of any explosive substance or by means of any substance which it is deleterious to the human body to inhale, to swallow, or to receive into the blood, or by means of any animal, shall be punished with imprisonment of either description for a term which may extend to three years, or with fine which may extend to twenty thousand rupees, or with both.

Voluntarily causing hurt or grievous hurt by dangerous weapons or means.

(2) Whoever, except in the case provided for by sub-section (2) of section 120, voluntarily causes grievous hurt by any means referred to in sub-section (1), shall be punished with imprisonment for life, or with imprisonment of either description for a term which shall not be less than one year but which may extend to ten years, and shall also be liable to fine.

117. (1) Whoever voluntarily causes hurt, for the purpose of extorting from the sufferer, or from any person interested in the sufferer, any property or valuable security, or of constraining the sufferer or any person interested in such sufferer to do anything which is illegal or which may facilitate the commission of an offence, shall be punished with imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine.

Voluntarily causing hurt or grievous hurt to extort confession, or to compel restoration of property.

(2) Whoever voluntarily causes grievous hurt for any purpose referred to in sub-section (1), shall be punished with imprisonment for life, or imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine.

118. (1) Whoever voluntarily causes hurt, for the purpose of extorting from the sufferer or from any person interested in the sufferer, any confession or any information which may lead to the detection of an offence or misconduct, or for the purpose of constraining the sufferer or any person interested in the sufferer to restore or to cause the restoration of any property or valuable security or to satisfy any claim or demand, or to give information which may lead to the restoration of any property or 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.

Voluntarily causing hurt or grievous hurt to extort confession, or to compel restoration of property.

(2) Whoever voluntarily causes grievous hurt for any purpose referred to in sub-section (1), shall be punished with imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine.

Illustrations.

(a) A, a police-officer, tortures Z in order to induce Z to confess that he committed a crime. A is guilty of an offence under this section. 5

(b) A, a police-officer, tortures B to induce him to point out where certain stolen property is deposited. A is guilty of an offence under this section.

(c) A, a revenue officer, tortures Z in order to compel him to pay certain arrears of revenue due from Z. A is guilty of an offence under this section. 10

Voluntarily causing hurt or grievous hurt to deter public servant from his duty.

119. (1) Whoever voluntarily causes hurt to any person being a public servant in the discharge of his duty as such public servant, or with intent to prevent or deter that person or any other public servant from discharging his duty as such public servant or in consequence of anything done or attempted to be done by that person in the lawful discharge of his duty as such public servant, shall be punished with imprisonment of either description for a term which may extend to five years, or with fine, or with both. 15

(2) Whoever voluntarily causes grievous hurt to any person being a public servant in the discharge of his duty as such public servant, or with intent to prevent or deter that person or any other public servant from discharging his duty as such public servant or in consequence of anything done or attempted to be done by that person in the lawful discharge of his duty as such public servant, shall be punished with imprisonment of either description for a term which shall not be less than one year but which may extend to ten years, and shall also be liable to fine. 20

Voluntarily causing hurt or grievous hurt on provocation.

120. (1) Whoever voluntarily causes hurt on grave and sudden provocation, if he neither intends nor knows himself to be likely to cause hurt to any person other than the person who gave the provocation, shall be punished with imprisonment of either description for a term which may extend to one month, or with fine which may extend to five thousand rupees, or with both. 25

(2) Whoever voluntarily causes grievous hurt on grave and sudden provocation, if he neither intends nor knows himself to be likely to cause hurt to any person other than the person who gave the provocation, shall be punished with imprisonment of either description for a term which may extend to five years, or with fine which may extend to ten thousand rupees, or with both. 30

Explanation.—This section is subject to the same provision as *Exception 1*, section 99. 35

Causing hurt by means of poison, etc., with intent to commit an offence.

121. Whoever administers to or causes to be taken by any person any poison or any stupefying, intoxicating or unwholesome drug, or other thing with intent to cause hurt to such person, or with intent to commit or to facilitate the commission of an offence or knowing it to be likely that he will thereby cause hurt, shall be punished with imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine. 40

Voluntarily causing hurt or grievous hurt by use of acid, etc.

122. (1) Whoever causes permanent or partial damage or deformity to, or burns or maims or disfigures or disables, any part or parts of the body of a person or causes grievous hurt by throwing acid on or by administering acid to that person, or by using any other means with the intention of causing or with the knowledge that he is likely to cause such injury or hurt or causes a person to be in a permanent vegetative state shall be punished with imprisonment of either description for a term which shall not be less than ten years but which may extend to imprisonment for life, and with fine: 45

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

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

(2) Whoever throws or attempts to throw acid on any person or attempts to administer acid to any person, or attempts to use any other means, with the intention of causing permanent or partial damage or deformity or burns or maiming or disfigurement or disability or grievous hurt to that person, shall be punished with imprisonment of either description for a term which shall not be less than five years but which may extend to seven years, and shall also be liable to fine.

Explanation 1.—For the purposes of this section, “acid” includes any substance which has acidic or corrosive character or burning nature, that is capable of causing bodily injury leading to scars or disfigurement or temporary or permanent disability.

Explanation 2.—For the purposes of this section, permanent or partial damage or deformity or permanent vegetative state, shall not be required to be irreversible.

123. Whoever does any act so rashly or negligently as to endanger human life or the personal safety of others, shall be punished with imprisonment of either description for a term which may extend to three months or with fine which may extend to two thousand five hundred rupees, or with both, but—

(a) where the hurt is caused, shall be punished with imprisonment of either description for a term which may extend to six months, or with fine which may extend to five thousand rupees, or with both;

(b) where grievous hurt is caused, shall be punished with imprisonment of either description for a term which may extend to three years, or with fine which may extend to ten thousand rupees, or with both.

Of wrongful restraint and wrongful confinement

124. (1) Whoever voluntarily obstructs any person so as to prevent that person from proceeding in any direction in which that person has a right to proceed, is said wrongfully to restrain that person.

Exception. —The obstruction of a private way over land or water which a person in good faith believes himself to have a lawful right to obstruct, is not an offence within the meaning of this section.

Illustration.

A obstructs a path along which Z has a right to pass, A not believing in good faith that he has a right to stop the path. Z is thereby prevented from passing. A wrongfully restrains Z.

(2) Whoever wrongfully restrains any person shall be punished with simple imprisonment for a term which may extend to one month, or with fine which may extend to five thousand rupees, or with both.

125. (1) Whoever wrongfully restrains any person in such a manner as to prevent that person from proceedings beyond certain circumscribing limits, is said “wrongfully to confine” that person.

Illustrations.

(a) A causes Z to go within a walled space, and locks Z in. Z is thus prevented from proceeding in any direction beyond the circumscribing line of wall. A wrongfully confines Z.

(b) A places men with firearms at the outlets of a building, and tells Z that they will fire at Z if Z attempts to leave the building. A wrongfully confines Z.

(2) Whoever wrongfully confines any person shall be punished with imprisonment of either description for a term which may extend to one year, or with fine which may extend to five thousand rupees, or with both.

(3) Whoever wrongfully confines any person for three days, or more, shall be punished with imprisonment of either description for a term which may extend to three years, or with fine which may extend to ten thousand rupees, or with both.

(4) Whoever wrongfully confines any person for ten days or more, shall be punished with imprisonment of either description for a term which may extend to five years, and shall also be liable to fine which shall not be less than ten thousand rupees. 5

(5) Whoever keeps any person in wrongful confinement, knowing that a writ for the liberation of that person has been duly issued, shall be punished with imprisonment of either description for a term which may extend to two years in addition to any term of imprisonment to which he may be liable under any other section of this Chapter and shall also be liable to fine. 10

(6) Whoever wrongfully confines any person in such manner as to indicate an intention that the confinement of such person may not be known to any person interested in the person so confined, or to any public servant, or that the place of such confinement may not be known to or discovered by any such person or public servant as hereinbefore mentioned, shall be punished with imprisonment of either description for a term which may extend to three years in addition to any other punishment to which he may be liable for such wrongful confinement and shall also be liable to fine. 15

(7) Whoever wrongfully confines any person for the purpose of extorting from the person confined, or from any person interested in the person confined, any property or valuable security or of constraining the person confined or any person interested in such person to do anything illegal or to give any information which may facilitate the commission of an offence, shall be punished with imprisonment of either description for a term which may extend to three years, and shall also be liable to fine. 20

(8) Whoever wrongfully confines any person for the purpose of extorting from the person confined or any person interested in the person confined any confession or any information which may lead to the detection of an offence or misconduct, or for the purpose of constraining the person confined or any person interested in the person confined to restore or to cause the restoration of any property or valuable security or to satisfy any claim or demand, or to give information which may lead to the restoration of any property or valuable security, shall be punished with imprisonment of either description for a term which may extend to three years, and shall also be liable to fine. 25 30

Of criminal force and assault

Force.

126. A person is said to use force to another if he causes motion, change of motion, or cessation of motion to that other, or if he causes to any substance such motion, or change of motion, or cessation of motion as brings that substance into contact with any part of that other's body, or with anything which that other is wearing or carrying, or with anything so situated that such contact affects that other's sense of feeling: 35

Provided that the person causing the motion, or change of motion, or cessation of motion, causes that motion, change of motion, or cessation of motion in one of the following three ways, namely:— 40

(a) by his own bodily power;

(b) by disposing any substance in such a manner that the motion or change or cessation of motion takes place without any further act on his part, or on the part of any other person; 45

(c) by inducing any animal to move, to change its motion, or to cease to move.

127. Whoever intentionally uses force to any person, without that person's consent, in order to the committing of any offence, or intending by the use of such force to cause, or knowing it to be likely that by the use of such force he will cause injury, fear or annoyance to the person to whom the force is used, is said to use criminal force to that other. Criminal force.

5

Illustrations.

(a) Z is sitting in a moored boat on a river. A unfastens the moorings, and thus intentionally causes the boat to drift down the stream. Here A intentionally causes motion to Z, and he does this by disposing substances in such a manner that the motion is produced without any other action on any person's part. A has therefore intentionally used force to Z; and if he has done so without Z's consent, in order to the committing of any offence, or intending or knowing it to be likely that this use of force will cause injury, fear or annoyance to Z, A has used criminal force to Z. 10

(b) Z is riding in a chariot. A lashes Z's horses, and thereby causes them to quicken their pace. Here A has caused change of motion to Z by inducing the animals to change their motion. A has therefore used force to Z; and if A has done this without Z's consent, intending or knowing it to be likely that he may thereby injure, frighten or annoy Z, A has used criminal force to Z. 15

(c) Z is riding in a palanquin. A, intending to rob Z, seizes the pole and stops the palanquin. Here A has caused cessation of motion to Z, and he has done this by his own bodily power. A has therefore used force to Z; and as A has acted thus intentionally, without Z's consent, in order to the commission of an offence. A has used criminal force to Z. 20

(d) A intentionally pushes against Z in the street. Here A has by his own bodily power moved his own person so as to bring it into contact with Z. He has therefore intentionally used force to Z; and if he has done so without Z's consent, intending or knowing it to be likely that he may thereby injure, frighten or annoy Z, he has used criminal force to Z. 25

(e) A throw a stone, intending or knowing it to be likely that the stone will be thus brought into contact with Z, or with Z's clothes, or with something carried by Z, or that it will strike water and dash up the water against Z's clothes or something carried by Z. Here, if the throwing of the stone produce the effect of causing any substance to come into contact with Z, or Z's clothes, A has used force to Z, and if he did so without Z's consent, intending thereby to injure, frighten or annoy Z, he has used criminal force to Z. 30

(f) A intentionally pulls up a Woman's veil. Here A intentionally uses force to her, and if he does so without her consent intending or knowing it to be likely that he may thereby injure, frighten or annoy her, he has used criminal force to her. 35

(g) Z is bathing. A pours into the bath water which he knows to be boiling. Here A intentionally by his own bodily power causes such motion in the boiling water as brings that water into contact with Z, or with other water so situated that such contact must affect Z's sense of feeling; A has therefore intentionally used force to Z; and if he has done this without Z's consent intending or knowing it to be likely that he may thereby cause injury, fear or annoyance to Z, A has used criminal force. 40

(h) A incites a dog to spring upon Z, without Z's consent. Here, if A intends to cause injury, fear or annoyance to Z, he uses criminal force to Z. 45

128. Whoever makes any gesture, or any preparation intending or knowing it to be likely that such gesture or preparation will cause any person present to apprehend that he who makes that gesture or preparation is about to use criminal force to that person, is said to commit an assault. Assault.

Explanation.—Mere words do not amount to an assault. But the words which a person uses may give to his gestures or preparation such a meaning as may make those gestures or preparations amount to an assault.

Illustrations.

(a) A shakes his fist at Z, intending or knowing it to be likely that he may thereby cause Z to believe that A is about to strike Z. A has committed an assault. 5

(b) A begins to unloose the muzzle of a ferocious dog, intending or knowing it to be likely that he may thereby cause Z to believe that he is about to cause the dog to attack Z. A has committed an assault upon Z.

(c) A takes up a stick, saying to Z, "I will give you a beating". Here, though the words used by A could in no case amount to an assault, and though the mere gesture, unaccompanied by any other circumstances, might not amount to an assault, the gesture explained by the words may amount to an assault. 10

Punishment for assault or criminal force otherwise than on grave provocation.

129. Whoever assaults or uses criminal force to any person otherwise than on grave and sudden provocation given by that person, shall be punished with imprisonment of either description for a term which may extend to three months, or with fine which may extend to one thousand rupees, or with both. 15

Explanation.—Grave and sudden provocation will not mitigate the punishment for an offence under this section, if the provocation is sought or voluntarily provoked by the offender as an excuse for the offence, or 20

if the provocation is given by anything done in obedience to the law, or by a public servant, in the lawful exercise of the powers of such public servant, or

if the provocation is given by anything done in the lawful exercise of the right of private defence.

Whether the provocation was grave and sudden enough to mitigate the offence, is a question of fact. 25

Assault or criminal force to deter public servant from discharge of his duty.

130. Whoever assaults or uses criminal force to any person being a public servant in the execution of his duty as such public servant, or with intent to prevent or deter that person from discharging his duty as such public servant, or in consequence of anything done or attempted to be done by such person in the lawful discharge of his duty as such public servant, shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both. 30

Assault or criminal force with intent to dishonor person, otherwise than on grave provocation.

131. Whoever assaults or uses criminal force to any person, intending thereby to dishonour that person, otherwise than on grave and sudden provocation given by that person, shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both. 35

Assault or criminal force in attempt to commit theft of property carried by a person.

132. Whoever assaults or uses criminal force to any person, in attempting to commit theft on any property which that person is then wearing or carrying, shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both. 40

Assault or criminal force in attempt wrongfully to confine a person.

133. Whoever assaults or uses criminal force to any person, in attempting wrongfully to confine that person, shall be punished with imprisonment of either description for a term which may extend to one year, or with fine which may extend to five thousand rupees, or with both.

134. Whoever assaults or uses criminal force to any person on grave and sudden provocation given by that person, shall be punished with simple imprisonment for a term which may extend to one month, or with fine which may extend to one thousand rupees, or with both. Assault or criminal force on grave provocation.

5 *Explanation.*—This section is subject to the same *Explanation* as section 129.

Of Kidnapping, Abduction, Slavery and Forced Labour

135. (1) Kidnapping is of two kinds: kidnapping from India, and kidnapping from lawful guardianship— Kidnapping.

10 (a) whoever conveys any person beyond the limits of India without the consent of that person, or of some person legally authorised to consent on behalf of that person, is said to kidnap that person from India;

15 (b) whoever takes or entices any child below the age of eighteen years or any person with mental illness, out of the keeping of the lawful guardian of such child or person with mental illness, without the consent of such guardian, is said to kidnap such child or person from lawful guardianship.

Explanation.—The words “lawful guardian” in this clause include any person lawfully entrusted with the care or custody of such child or other person.

20 *Exception.*—This clause does not extend to the act of any person who in good faith believes himself to be the father of an illegitimate child below the age of eighteen years, or who in good faith believes himself to be entitled to the lawful custody of such child, unless such act is committed for an immoral or unlawful purpose.

(2) Whoever kidnaps any person from India or from lawful guardianship shall be punished with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine.

25 **136.** Whoever by force compels, or by any deceitful means induces, any person to go from any place, is said to abduct that person. Abduction.

30 **137.** (1) Whoever kidnaps any child below the age of eighteen years or, not being the lawful guardian of such child, obtains the custody of the child, in order that such child may be employed or used for the purposes of begging shall be punishable with rigorous imprisonment for a term which shall not be less than ten years but which may extend to imprisonment for life, and shall also be liable to fine. Kidnapping or maiming a child for purposes of begging.

35 (2) Whoever maims any child below the age of eighteen years in order that such child may be employed or used for the purposes of begging shall be punishable with imprisonment 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.

(3) Where any person, not being the lawful guardian of a child below the age of eighteen years employs or uses such child for the purposes of begging, it shall be presumed, unless the contrary is proved, that he kidnapped or otherwise obtained the custody of such child in order that such child might be employed or used for the purposes of begging.

40 (4) In this section “begging” means—

(i) soliciting or receiving alms in a public place, whether under the pretence of singing, dancing, fortune-telling, performing tricks or selling articles or otherwise;

(ii) entering on any private premises for the purpose of soliciting or receiving alms;

(iii) exposing or exhibiting, with the object of obtaining or extorting alms, any sore, wound, injury, deformity or disease, whether of himself or of any other person or of an animal;

(iv) using such child as an exhibit for the purpose of soliciting or receiving alms.

Kidnapping or abducting in order to murder or for ransom etc.

138. (1) Whoever kidnaps or abducts any person in order that such person may be murdered or may be so disposed of as to be put in danger of being murdered, shall be punished with imprisonment for life or rigorous imprisonment for a term which may extend to ten years, and shall also be liable to fine. 5

Illustrations.

(a) A kidnaps Z from India, intending or knowing it to be likely that Z may be sacrificed to an idol. A has committed the offence defined in this section. 10

(b) A forcibly carries or entices B away from his home in order that B may be murdered. A has committed the offence defined in this section.

(2) Whoever kidnaps or abducts any person or keeps a person in detention after such kidnapping or abduction, and threatens to cause death or hurt to such person, or by his conduct gives rise to a reasonable apprehension that such person may be put to death or hurt, or causes hurt or death to such person in order to compel the Government or any foreign State or international inter-governmental organisation or any other person to do or abstain from doing any act or to pay a ransom, shall be punishable with death, or imprisonment for life, and shall also be liable to fine. 15 20

(3) Whoever kidnaps or abducts any person with intent to cause that person to be secretly and wrongfully confined, shall be punished with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine.

(4) Whoever kidnaps or abducts any person in order that such person may be subjected, or may be so disposed of as to be put in danger of being subjected to grievous hurt, or slavery, or to the unnatural lust of any person, or knowing it to be likely that such person will be so subjected or disposed of, shall be punished with imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine. 25

Importation of girl or boy from foreign country.

139. Whoever imports into India from any country outside India any girl under the age of twenty-one years or any boy under the age of eighteen years with intent that girl or boy may be, or knowing it to be likely that girl or boy will be, forced or seduced to illicit intercourse with another person, shall be punishable with imprisonment which may extend to ten years and shall also be liable to fine. 30

Wrongfully concealing or keeping in confinement, kidnapped or abducted person.

140. Whoever, knowing that any person has been kidnapped or has been abducted, wrongfully conceals or confines such person, shall be punished in the same manner as if he had kidnapped or abducted such person with the same intention or knowledge, or for the same purpose as that with or for which he conceals or detains such person in confinement. 35

Trafficking of person.

141. (1) Whoever, for the purpose of exploitation, recruits, transports, harbours, transfers, or receives, a person or persons, by—

(a) using threats; or 40

(b) using force, or any other form of coercion; or

(c) by abduction; or

(d) by practicing fraud, or deception; or

(e) by abuse of power; or

(f) by inducement, including the giving or receiving of payments or benefits, in order to achieve the consent of any person having control over the person recruited, transported, harboured, transferred or received,

commits the offence of trafficking.

5 *Explanation 1.*—The expression “exploitation” shall include any act of physical exploitation or any form of sexual exploitation, slavery or practices similar to slavery, servitude, beggary or forced removal of organs.

Explanation 2.—The consent of the victim is immaterial in determination of the offence of trafficking.

10 (2) Whoever commits the offence of trafficking shall be punished with rigorous imprisonment for a term which shall not be less than seven years, but which may extend to ten years, and shall also be liable to fine.

(3) Where the offence involves the trafficking of more than one person, it shall be punishable with rigorous imprisonment for a term which shall not be less than ten years but 15 which may extend to imprisonment for life, and shall also be liable to fine.

(4) Where the offence involves the trafficking of a child below the age of eighteen years, it shall be punishable with rigorous imprisonment for a term which shall not be less than ten years, but which may extend to imprisonment for life, and shall also be liable to fine.

20 (5) Where the offence involves the trafficking of more than one child below the age of eighteen years, it shall be punishable with rigorous imprisonment for a term which shall not be less than fourteen years, but which may extend to imprisonment for life, and shall also be liable to fine.

(6) If a person is convicted of the offence of trafficking of child below the age of eighteen years on more than one occasion, then such person shall be punished with 25 imprisonment for life, which shall mean imprisonment for the remainder of that person’s natural life, and shall also be liable to fine.

(7) When a public servant or a police officer is involved in the trafficking of any person then, such public servant or police officer shall be punished with imprisonment for life, which shall mean imprisonment for the remainder of that person’s natural life, and shall also be 30 liable to fine.

142. (1) Whoever, knowingly or having reason to believe that a child below the age of eighteen years has been trafficked, engages such child for sexual exploitation in any manner, shall be punished with rigorous imprisonment for a term which shall not be less than five years, but which may extend to ten years, and shall also be liable to fine.

Exploitation of a trafficked person.

35 (2) Whoever, knowingly by or having reason to believe that a person has been trafficked, engages such person for sexual exploitation in any manner, shall be punished with rigorous imprisonment for a term which shall not be less than three years, but which may extend to seven years, and shall also be liable to fine.

40 **143.** Whoever habitually imports, exports, removes, buys, sells, traffics or deals in slaves, shall be punished with imprisonment for life, or with imprisonment of either description for a term not exceeding ten years, and shall also be liable to fine.

Habitual dealing in slaves.

144. Whoever unlawfully compels any person to labour against the will of that person, shall be punished with imprisonment of either description for a term which may extend to one year, or with fine, or with both.

Unlawful compulsory labour.

CHAPTER VII

OF OFFENCES AGAINST THE STATE

Waging, or attempting to wage war, or abetting waging of war, against Government of India.	<p>145. Whoever wages war against the Government of India, or attempts to wage such war, or abets the waging of such war, shall be punished with death, or imprisonment for life and shall also be liable to fine.</p>	5
	<i>Illustration.</i>	
	A joins an insurrection against the Government of India. A has committed the offence defined in this section.	
Conspiracy to commit offences punishable by section 145.	<p>146. Whoever within or without and beyond India conspires to commit any of the offences punishable by section 145, or conspires to overawe, by means of criminal force or the show of criminal force, the Central Government or any State Government, shall be punished with imprisonment for life, or with imprisonment of either description which may extend to ten years, and shall also be liable to fine.</p>	10
	<i>Explanation.</i> —To constitute a conspiracy under this section, it is not necessary that any act or illegal omission shall take place in pursuance thereof.	15
Collecting arms, etc., with intention of waging war against Government of India.	<p>147. Whoever collects men, arms or ammunition or otherwise prepares to wage war with the intention of either waging or being prepared to wage war against the Government of India, shall be punished with imprisonment for life or imprisonment of either description for a term not exceeding ten years, and shall also be liable to fine.</p>	
Concealing with intent to facilitate design to wage war.	<p>148. Whoever by any act, or by any illegal omission, conceals the existence of a design to wage war against the Government of India, intending by such concealment to facilitate, or knowing it to be likely that such concealment will facilitate, the waging of such war, shall be punished with imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine.</p>	20
Assaulting President Governor, etc., with intent to compel or restrain exercise of any lawful power.	<p>149. Whoever, with the intention of inducing or compelling the President of India, or Governor of any State, to exercise or refrain from exercising in any manner any of the lawful powers of such President or Governor, assaults or wrongfully restrains, or attempts wrongfully to restrain, or overawes, by means of criminal force or the show of criminal force, or attempts so to overawe, such President or Governor, shall be punished with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine.</p>	25 30
Acts endangering sovereignty unity and integrity of India.	<p>150. 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.</p>	35
	<i>Explanation.</i> —Comments expressing disapprobation of the measures, or administrative or other action of the Government with a view to obtain their alteration by lawful means without exciting or attempting to excite the activities referred to in this section.	40
Waging war against Government of any foreign State at peace with Government of India.	<p>151. Whoever wages war against the Government of any foreign State at peace with the Government of India or attempts to wage such war, or abets the waging of such war, shall be punished with imprisonment for life, to which fine may be added, or with imprisonment of either description for a term which may extend to seven years, to which fine may be added, or with fine.</p>	45

- 5 **152.** Whoever commits depredation, or makes preparations to commit depredation, on the territories of any foreign State at peace with the Government of India, shall be punished with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine and to forfeiture of any property used or intended to be used in committing such depredation, or acquired by such depredation. Committing depredation on territories of foreign State at peace with Governemnt of India.
- 153.** Whoever receives any property knowing the same to have been taken in the commission of any of the offences mentioned in sections 151 and 152, shall be punished with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine and to forfeiture of the property so received. Receiving property taken by war or depredation mentioned in sections 151 and 152.
- 10 **154.** Whoever, being a public servant and having the custody of any State prisoner or prisoner of war, voluntarily allows such prisoner to escape from any place in which such prisoner is confined, shall be punished with imprisonment for life, or imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine. Public servant voluntarily allowing prisoner of sate or war to escape.
- 15 **155.** Whoever, being a public servant and having the custody of any State prisoner or prisoner of war, negligently suffers such prisoner to escape from any place of confinement in which such prisoner is confined, shall be punished with simple imprisonment for a term which may extend to three years, and shall also be liable to fine. Public servant negligently suffering such prisoner to escape.
- 20 **156.** Whoever knowingly aids or assists any State prisoner or prisoner of war in escaping from lawful custody, or rescues or attempts to rescue any such prisoner, or harbours or conceals any such prisoner who has escaped from lawful custody, or offers or attempts to offer any resistance to the recapture of such prisoner, shall be punished with imprisonment for life, or with imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine. Aiding escape of rescuing or harbouring such prisoner.
- 25 *Explanation.* —A State prisoner or prisoner of war, who is permitted to be at large on his parole within certain limits in India, is said to escape from lawful custody if he goes beyond the limits within which he is allowed to be at large.

CHAPTER VIII

OF OFFENCES RELATING TO THE ARMY, NAVY AND AIR FORCE

- 30 **157.** Whoever abets the committing of mutiny by an officer, soldier, sailor or airman, in the Army, Navy or Air Force subject to the Acts referred to in section 165 of the Government of India or attempts to seduce any such officer, soldier, sailor or airman from his allegiance or his duty, shall be punished with imprisonment for life, or with imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine. Abetting mutiny, or attempting to seduce a soldier, sailor or airman from his duty.
- 35 **158.** Whoever abets the committing of mutiny by an officer, soldier, sailor or airman, in the Army, Navy or Air Force of the Government of India, shall, if mutiny be committed in consequence of that abetment, be punished with death or with imprisonment for life, or imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine. Abetment of mutiny, if mutiny is committed in consequence thereof.
- 40 **159.** Whoever abets an assault by an officer, soldier, sailor or airman, in the Army, Navy or Air Force of the Government of India, on any superior officer being in the execution of his office, shall be punished with imprisonment of either description for a term which may extend to three years, and shall also be liable to fine. Abetment of assault by soldier, sailor or airman on his superior office, when in execution of his office.

Abetment of such assault, if assault committed.	160. Whoever abets an assault by an officer, soldier, sailor or airman, in the Army, Navy or Air Force of the Government of India, on any superior officer being in the execution of his office, shall, if such assault be committed in consequence of that abetment be punished with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine.	5
Abetment of desertion of soldier, sailor or airman.	161. Whoever abets the desertion of any officer, soldier, sailor or airman, in the Army, Navy or Air Force of the Government of India, shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both.	
Harbouring deserter.	162. Whoever, except as hereinafter excepted, knowing or having reason to believe that an officer, soldier, sailor or airman, in the Army, Navy or Air Force of the Government of India, has deserted, harbours such officer, soldier, sailor or airman, shall be punished with imprisonment of either description for a term which may extend to two years, or with fine or with both. <i>Exception.</i> —This provision does not extend to the case in which the harbour is given by the spouse of the deserter.	10 15
Deserter concealed on board merchant vessel through negligence of master.	163. The master or person in charge of a merchant vessel, on board of which any deserter from the Army, Navy or Air Force of the Government of India is concealed, shall, though ignorant of such concealment, be liable to a penalty not exceeding three thousand rupees, if he might have known of such concealment but for some neglect of his duty as such master or person in charge, or but for some want of discipline on board of the vessel.	20
Abetment of act of insubordination by soldier, sailor or airman.	164. Whoever abets what he knows to be an act of insubordination by an officer, soldier, sailor or airman, in the Army, Navy or Air Force, of the Government of India, shall, if such act of insubordination be committed in consequence of that abetment, be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both.	25
Persons subject to certain Acts.	165. No person subject to the Army Act, 1950 the Indian Navy (Discipline) Act, 1934, or the Air Force Act , 1950 shall be subject to punishment under this Sanhita for any of the offences defined in this Chapter.	46 of 1950. 45 of 1950. 34 of 1934.
Wearing garb or carrying token used by soldier, sailor or airman.	166. Whoever, not being a soldier, sailor or airman in the Army, Naval or Air service of the Government of India, wears any garb or carries any token resembling any garb or token used by such a soldier, sailor or airman with the intention that it may be believed that he is such a soldier, sailor or airman, shall be punished with imprisonment of either description for a term which may extend to three months, or with fine which may extend to two thousand rupees, or with both.	30
CHAPTER IX		35
OF OFFENCES RELATING TO ELECTIONS		
Candidate, Electoral right defined.	167. For the purposes of this Chapter— (a) “candidate” means a person who has been nominated as a candidate at any election; (b) “electoral right” means the right of a person to stand, or not to stand as, or to withdraw from being, a candidate or to vote or refrain from voting at an election.	40
Bribery.	168. (1) Whoever— (i) gives a gratification to any person with the object of inducing him or any other person to exercise any electoral right or of rewarding any person for having exercised any such right; or	45

(ii) accepts either for himself or for any other person any gratification as a reward for exercising any such right or for inducing or attempting to induce any other person to exercise any such right,

commits the offence of bribery:

5 Provided that a declaration of public policy or a promise of public action shall not be an offence under this section.

(2) A person who offers, or agrees to give, or offers or attempts to procure, a gratification shall be deemed to give a gratification.

10 (3) A person who obtains or agrees to accept or attempts to obtain a gratification shall be deemed to accept a gratification, and a person who accepts a gratification as a motive for doing what he does not intend to do, or as a reward for doing what he has not done, shall be deemed to have accepted the gratification as a reward.

169. (1) Whoever voluntarily interferes or attempts to interfere with the free exercise of any electoral right commits the offence of undue influence at an election.

Undue influence at elections.

15 (2) Without prejudice to the generality of the provisions of sub-section (1), whoever—

(a) threatens any candidate or voter, or any person in whom a candidate or voter is interested, with injury of any kind; or

20 (b) induces or attempts to induce a candidate or voter to believe that he or any person in whom he is interested will become or will be rendered an object of Divine displeasure or of spiritual censure,

shall be deemed to interfere with the free exercise of the electoral right of such candidate or voter, within the meaning of sub-section (1).

25 (3) A declaration of public policy or a promise of public action or the mere exercise or a legal right without intent to interfere with an electoral right, shall not be deemed to be interference within the meaning of this section.

30 **170.** Whoever at an election applies for a voting paper on votes in the name of any other person, whether living or dead, or in a fictitious name, or who having voted once at such election applies at the same election for a voting paper in his own name, and whoever abets, procures or attempts to procure the voting by any person in any such way, commits the offence of personation at an election:

Personation at elections.

Provided that nothing in this section shall apply to a person who has been authorised to vote as proxy for an elector under any law for the time being in force in so far as he votes as a proxy for such elector.

35 **171.** Whoever commits the offence of bribery shall be punished with imprisonment of either description for a term which may extend to one year, or with fine, or with both:

Punishment for bribery.

Provided that bribery by treating shall be punished with fine only.

Explanation.— “Treating” means that form of bribery where the gratification consists in food, drink, entertainment, or provision.

40 **172.** Whoever commits the offence of undue influence or personation at an election shall be punished with imprisonment of either description for a term which may extend to one year or with fine, or with both.

Punishment for undue influence or personation at an election.

45 **173.** Whoever with intent to affect the result of an election makes or publishes any statement purporting to be a statement of fact which is false and which he either knows or believes to be false or does not believe to be true, in relation to the personal character or conduct of any candidate shall be punished with fine.

False statement in connection with an election.

Illegal payments in connection with an election. **174.** Whoever without the general or special authority in writing of a candidate incurs or authorises expenses on account of the holding of any public meeting, or upon any advertisement, circular or publication, or in any other way whatsoever for the purpose of promoting or procuring the election of such candidate, shall be punished with fine which may extend to ten thousand rupees: 5

Provided that if any person having incurred any such expenses not exceeding the amount of ten rupees without authority obtains within ten days from the date on which such expenses were incurred the approval in writing of the candidate, he shall be deemed to have incurred such expenses with the authority of the candidate.

Failure to keep election accounts. **175.** Whoever being required by any law for the time being in force or any rule having the force of law to keep accounts of expenses incurred at or in connection with an election fails to keep such accounts shall be punished with fine which may extend to five thousand rupees. 10

CHAPTER X

OF OFFENCES RELATING TO COIN, CURRENCY NOTES, BANK NOTES, AND GOVERNMENT STAMPS 15

Counterfeiting coin, Government stamps, currency-notes or bank-notes. **176.** Whoever counterfeits, or knowingly performs any part of the process of counterfeiting, any coin, stamp issued by Government for the purpose of revenue, currency-note or bank-note, shall be punished with imprisonment for life, or with imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine.

Explanation.—For the purposes of this Chapter,— 20

(1) the expression “bank-note” means a promissory note or engagement for the payment of money to bearer on demand issued by any person carrying on the business of banking in any part of the world, or issued by or under the authority of any State or Sovereign Power, and intended to be used as equivalent to, or as a substitute for money; 25

(2) “coin” shall have the same meaning assigned to it in section 2 of the Coinage Act, 2011 and includes metal used for the time being as money and is stamped and issued by or under the authority of any State or Sovereign Power intended to be so used; 11 of 2011.

(3) a person commits the offence of “counterfeiting Government stamp” who counterfeits by causing a genuine stamp of one denomination to appear like a genuine stamp of a different denomination; 30

(4) a person commits the offence of counterfeiting coin who intending to practice deception, or knowing it to be likely that deception will thereby be practiced, causes a genuine coin to appear like a different coin; and 35

(5) the offence of “counterfeiting coin” includes diminishing the weight or alteration of the composition, or alteration of the appearance of the coin.

Using as genuine, forged or counterfeit coin, Government stamp, currency-notes or bank-notes. **177.** Whoever sells or delivers to, or buys or receives from, any other person, or otherwise traffics or uses as genuine, any forged or counterfeit coin, stamp issued by Government for the purpose of revenue, currency-note or bank-note, knowing or having reason to believe the same to be forged or counterfeit, shall be punished with imprisonment for life, or with imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine. 40

Possession of forged or counterfeit coin, Government stamp, currency-notes or bank-notes. **178.** Whoever has in his possession any forged or counterfeit coin, stamp issued by Government for the purpose of revenue, currency-note or bank-note, knowing or having reason to believe the same to be forged or counterfeit and intending to use the same as genuine or that it may be used as genuine, shall be punished with imprisonment of either description for a term which may extend to seven years, or with fine, or with both. 45

179. Whoever makes or mends, or performs any part of the process of making or mending, or buys or sells or disposes of, or has in his possession, any machinery, die, instrument or material for the purpose of being used, or knowing or having reason to believe that it is intended to be used, for forging or counterfeiting any coin, stamp issued by Government for the purpose of revenue, currency-note or bank-note, shall be punished with imprisonment for life, or with imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine.
180. (1) Whoever makes, or causes to be made, or uses for any purpose whatsoever, or delivers to any person, any document purporting to be, or in any way resembling, or so nearly resembling as to be calculated to deceive, any currency-note or bank-note shall be punished with fine which may extend to three hundred rupees.
- (2) If any person, whose name appears on a document the making of which is an offence under sub-section (1), refuses, without lawful excuse, to disclose to a police-officer on being so required the name and address of the person by whom it was printed or otherwise made, he shall be punished with fine which may extend to six hundred rupees.
- (3) Where the name of any person appears on any document in respect of which any person is charged with an offence under sub-section (1) or on any other document used or distributed in connection with that document it may, until the contrary is proved, be presumed that the person caused the document to be made.
181. Whoever, fraudulently or with intent to cause loss to the Government, removes or effaces from any substance, bearing any stamp issued by Government for the purpose of revenue, any writing or document for which such stamp has been used, or removes from any writing or document a stamp which has been used for such writing or document, in order that such stamp may be used for a different writing or document, shall be punished with imprisonment of either description for a term which may extend to three years, or with fine, or with both.
182. Whoever, fraudulently or with intent to cause loss to the Government, uses for any purpose a stamp issued by Government for the purpose of revenue, which he knows to have been before used, shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both.
183. Whoever, fraudulently or with intent to cause loss to Government, erases or removes from a stamp issued by Government for the purpose of revenue, any mark, put or impressed upon such stamp for the purpose of denoting that the same has been used, or knowingly has in his possession or sells or disposes of any such stamp from which such mark has been erased or removed, or sells or disposes of any such stamp which he knows to have been used, shall be punished with imprisonment of either description for a term which may extend to three years, or with fine, or with both.
184. (1) Whoever—
- (a) makes, knowingly utters, deals in or sells any fictitious stamp, or knowingly uses for any postal purpose any fictitious stamp; or
- (b) has in his possession, without lawful excuse, any fictitious stamp; or
- (c) makes or, without lawful excuse, has in his possession any die, plate, instrument or materials for making any fictitious stamp,

Making or possessing instruments or materials for forging or counterfeiting coin, Government stamp, currency-notes or bank-notes.

Making or using documents resembling currency-notes or bank-notes..

Effacing writing from substance bearing Government stamp, or removing document a stamp used for it, with intent to cause loss to Government.

Using Government stamp known to have been before used.

Erasure of mark denoting that stamp has been used.

Prohibition of fictitious stamps.

shall be punished with fine which may extend to two hundred rupees.

(2) Any such stamp, die, plate, instrument or materials in the possession of any person for making any fictitious stamp may be seized and, if seized shall be forfeited.

(3) In this section “fictitious stamp” means any stamp falsely purporting to be issued by Government for the purpose of denoting a rate of postage, or any facsimile or imitation or representation, whether on paper or otherwise, of any stamp issued by Government for that purpose. 5

(4) In this section and also in sections 176 to 179, and sections 181 to 183 both inclusive, the word “Government”, when used in connection with, or in reference to any stamp issued for the purpose of denoting a rate of postage, shall, notwithstanding anything in clause (II) of section 2, be deemed to include the person or persons authorised by law to administer executive Government in any part of India or in any foreign country. 10

Person employed in mint causing coin to be of different weight or composition from that fixed by law.

185. Whoever, being employed in any mint lawfully established in India, does any act, or omits what he is legally bound to do, with the intention of causing any coin issued from that mint to be of a different weight or composition from the weight or composition fixed by law, shall be punished with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine. 15

Unlawfully taking coining instrument from mints.

186. Whoever, without lawful authority, takes out of any mint, lawfully established in India, any coining tool or instrument, shall be punished with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine. 20

CHAPTER XI

OF OFFENCES AGAINST THE PUBLIC TRANQUILLITY

Unlawful assembly.

187. (1) An assembly of five or more persons is designated an “unlawful assembly”, if the common object of the persons composing that assembly is— 25

(a) to overawe by criminal force, or show of criminal force, the Central Government or any State Government or Parliament or the Legislature of any State, or any public servant in the exercise of the lawful power of such public servant; or

(b) to resist the execution of any law, or of any legal process; or

(c) to commit any mischief or criminal trespass, or other offence; or 30

(d) by means of criminal force, or show of criminal force, to any person, to take or obtain possession of any property, or to deprive any person of the enjoyment of a right of way, or of the use of water or other incorporeal right of which he is in possession or enjoyment, or to enforce any right or supposed right; or

(e) by means of criminal force, or show of criminal force, to compel any person to do what he is not legally bound to do, or to omit to do what he is legally entitled to do. 35

Explanation.—An assembly which was not unlawful when it assembled, may subsequently become an unlawful assembly.

(2) Whoever, being aware of facts which render any assembly an unlawful assembly, intentionally joins that assembly, or continues in it, is said to be a member of an unlawful assembly and such member shall be punished with imprisonment of either description for a term which may extend to six months, or with fine, or with both. 40

(3) Whoever joins or continues in an unlawful assembly, knowing that such unlawful assembly has been commanded in the manner prescribed by law to disperse, shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both. 45

(4) Whoever, being armed with any deadly weapon, or with anything which, used as a weapon of offence, is likely to cause death, is a member of an unlawful assembly, shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both.

5 (5) Whoever knowingly joins or continues in any assembly of five or more persons likely to cause a disturbance of the public peace, after such assembly has been lawfully commanded to disperse, shall be punished with imprisonment of either description for a term which may extend to six months, or with fine, or with both.

Explanation.—If the assembly is an unlawful assembly within the meaning of
10 sub-section (1), the offender shall be punishable under sub-section (3).

(6) Whoever hires or engages, or employs, or promotes, or connives at the hiring, engagement or employment of any person to join or become a member of any unlawful assembly, shall be punishable as a member of such unlawful assembly, and for any offence
15 which may be committed by any such person as a member of such unlawful assembly in pursuance of such hiring, engagement or employment, in the same manner as if he had been a member of such unlawful assembly, or himself had committed such offence.

(7) Whoever harbours, receives or assembles, in any house or premises in his occupation or charge, or under his control any persons knowing that such persons have
20 been hired, engaged or employed, or are about to be hired, engaged or employed, to join or become members of an unlawful assembly, shall be punished with imprisonment of either description for a term which may extend to six months, or with fine, or with both.

(8) Whoever is engaged, or hired, or offers or attempts to be hired or engaged, to do or assist in doing any of the acts specified in sub-section (1), shall be punished with imprisonment of either description for a term which may extend to six months, or with fine, or with both.

25 (9) Whoever, being so engaged or hired as referred to in sub-section (8), goes armed, or engages or offers to go armed, with any deadly weapon or with anything which used as a weapon of offence is likely to cause death, shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both.

30 **188.** If an offence is committed by any member of an unlawful assembly in prosecution of the common object of that assembly, or such as the members of that assembly knew to be likely to be committed in prosecution of that object, every person who, at the time of the committing of that offence, is a member of the same assembly, is guilty of that offence.

Every member of unlawful assembly guilty of offence committed in prosecution of common object.

35 **189.** (1) Whenever force or violence is used by an unlawful assembly, or by any member thereof, in prosecution of the common object of such assembly, every member of such assembly is guilty of the offence of rioting.

Rioting.

(2) Whoever is guilty of rioting, shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both.

40 (3) Whoever is guilty of rioting, being armed with a deadly weapon or with anything which, used as a weapon of offence, is likely to cause death, shall be punished with imprisonment of either description for a term which may extend to five years, or with fine, or with both.

45 **190.** Whoever malignantly, or wantonly by doing anything which is illegal, gives provocation to any person intending or knowing it to be likely that such provocation will cause the offence of rioting to be committed, shall, if the offence of rioting be committed in consequence of such provocation, be punished with imprisonment of either description for a term which may extend to one year, or with fine, or with both; and if the offence of rioting be not committed, with imprisonment of either description for a term which may extend to six months, or with fine, or with both.

Wantonly giving provocation with intent to cause riot-if rioting be committed; if not committed.

Liability of owner, occupier, etc., of land on which an unlawful assembly or riot takes place.

191. (1) Whenever any unlawful assembly or riot takes place, the owner or occupier of the land upon which such unlawful assembly is held, or such riot is committed, and any person having or claiming an interest in such land, shall be punishable with fine not exceeding one thousand rupees, if he or his agent or manager, knowing that such offence is being or has been committed, or having reason to believe it is likely to be committed, do not give the earliest notice thereof in his or their power to the officer in charge at the nearest police-station, and do not, in the case of his or their having reason to believe that it was about to be committed, use all lawful means in his or their power to prevent it and, in the event of its taking place, do not use all lawful means in his or their power to disperse or suppress the riot or unlawful assembly.

(2) Whenever a riot is committed for the benefit or on behalf of any person who is the owner or occupier of any land respecting which such riot takes place or who claims any interest in such land, or in the subject of any dispute which gave rise to the riot, or who has accepted or derived any benefit therefrom, such person shall be punishable with fine, if he or his agent or manager, having reason to believe that such riot was likely to be committed or that the unlawful assembly by which such riot was committed was likely to be held, shall not respectively use all lawful means in his or their power to prevent such assembly or riot from taking place, and for suppressing and dispersing the same.

(3) Whenever a riot is committed for the benefit or on behalf of any person who is the owner or occupier of any land respecting which such riot takes place, or who claims any interest in such land, or in the subject of any dispute which gave rise to the riot, or who has accepted or derived any benefit therefrom, the agent or manager of such person shall be punishable with fine, if such agent or manager, having reason to believe that such riot was likely to be committed, or that the unlawful assembly by which such riot was committed was likely to be held, shall not use all lawful means in his power to prevent such riot or assembly from taking place and for suppressing and dispersing the same.

Affray.

192. (1) When two or more persons, by fighting in a public place, disturb the public peace, they are said to commit an affray.

(2) Whoever commits an affray, shall be punished with imprisonment of either description for a term which may extend to one month, or with fine which may extend to one thousand rupees, or with both.

Assaulting or obstructing public servant when suppressing riot, etc.

193. (1) Whoever assaults or obstructs any public servant or uses criminal force on any public servant in the discharge of his duty in endeavouring to disperse an unlawful assembly, or to suppress a riot or affray, shall be punished with imprisonment of either description for a term which may extend to three years, or with fine which shall not be less than twenty-five thousand rupees, or with both.

(2) Whoever threatens to assault or attempts to obstruct any public servant or threaten or attempts to use criminal force to any public servant in the discharge of his duty in endeavouring to disperse an unlawful assembly, or to suppress a riot or affray, shall be punished with imprisonment of either description for a term which may extend to one year, or with fine, or with both.

Promoting enmity between different groups on ground of religion, race, place of birth, residence, language, etc., and doing acts prejudicial to maintenance of harmony.

194. (1) Whoever—

(a) by words, either spoken or written, or by signs or by visible representations or through electronic communication or otherwise, promotes or attempts to promote, on grounds of religion, race, place of birth, residence, language, caste or community or any other ground whatsoever, disharmony or feelings of enmity, hatred or ill-will between different religious, racial, language or regional groups or castes or communities; or

(b) commits any act which is prejudicial to the maintenance of harmony between different religious, racial, language or regional groups or castes or communities, and which disturbs or is likely to disturb the public tranquility; or

5 (c) organises any exercise, movement, drill or other similar activity intending that the participants in such activity shall use or be trained to use criminal force or violence or knowing it to be likely that the participants in such activity will use or be trained to use criminal force or violence, or participates in such activity intending to use or be trained to use criminal force or violence or knowing it to be likely that the participants in such activity will use or be trained to use criminal force or violence, against any
10 religious, racial, language or regional group or caste or community and such activity for any reason whatsoever causes or is likely to cause fear or alarm or a feeling of insecurity amongst members of such religious, racial, language or regional group or caste or community,

15 shall be punished with imprisonment which may extend to three years, or with fine, or with both.

(2) Whoever commits an offence specified in sub-section (1) in any place of worship or in any assembly engaged in the performance of religious worship or religious ceremonies, shall be punished with imprisonment which may extend to five years and shall also be liable to fine.

20 **195.** (1) Whoever, by words either spoken or written or by signs or by visible representations or through electronic communication or otherwise,—

Imputations, assertions prejudicial to national integration.

25 (a) makes or publishes any imputation that any class of persons cannot, by reason of their being members of any religious, racial, language or regional group or caste or community, bear true faith and allegiance to the Constitution of India as by law established or uphold the sovereignty and integrity of India; or

(b) asserts, counsels, advises, propagates or publishes that any class of persons shall, by reason of their being members of any religious, racial, language or regional group or caste or community, be denied, or deprived of their rights as citizens of India; or

30 (c) makes or publishes any assertion, counsel, plea or appeal concerning the obligation of any class of persons, by reason of their being members of any religious, racial, language or regional group or caste or community, and such assertion, counsel, plea or appeal causes or is likely to cause disharmony or feelings of enmity or hatred or ill-will between such members and other persons; or

35 (d) makes or publishes false or misleading information jeopardising the sovereignty unity and integrity or security of India,

shall be punished with imprisonment which may extend to three years, or with fine, or with both.

40 (2) Whoever commits an offence specified in sub-section (1) in any place of worship or in any assembly engaged in the performance of religious worship or religious ceremonies, shall be punished with imprisonment which may extend to five years and shall also be liable to fine.

CHAPTER XII

OF OFFENCES BY OR RELATING TO PUBLIC SERVANTS

45 **196.** Whoever, being a public servant, knowingly disobeys any direction of the law as to the way in which he is to conduct himself as such public servant, intending to cause, or knowing it to be likely that he will by such disobedience, cause injury to any person, shall be punished with simple imprisonment for a term which may extend to one year, or with fine, or with both.

Public servant disobeying law, with intent to cause injury to any person.

Illustration.

A, being an officer directed by law to take property in execution, in order to satisfy a decree pronounced in Z's favour by a Court, knowingly disobeys that direction of law, with the knowledge that he is likely thereby to cause injury to Z. A has committed the offence defined in this section. 5

Public servant disobeying direction under law.

197. Whoever, being a public servant,—

(a) knowingly disobeys any direction of the law which prohibits him from requiring the attendance at any place of any person for the purpose of investigation into an offence or any other matter; or

(b) knowingly disobeys, to the prejudice of any person, any other direction of the law regulating the manner in which he shall conduct such investigation; or 10

(c) fails to record any information given to him under sub-section (1) of section 174 of the *Bhartiya Nagarik Suraksha Sanhita, 2023* in relation to cognizable offence punishable under section 64, section 65 section 66, section 67, section 68, section 71, section 73, section 76, section 122 or section 141 or section 142, 15

shall be punished with rigorous imprisonment for a term which shall not be less than six months but which may extend to two years, and shall also be liable to fine.

Punishment for non-treatment of victim.

198. Whoever, being in charge of a hospital, public or private, whether run by the Central Government, the State Government, local bodies or any other person, contravenes the provisions of section 449 of the *Bharatiya Nagarik Suraksha Sanhita, 2023*, shall be punished with imprisonment for a term which may extend to one year or with fine or with both. 20

Public servant framing an incorrect document with intent to cause injury.

199. Whoever, being a public servant, and being, as such public servant, charged with the preparation or translation of any document or electronic record, frames, prepares or translates that document or electronic record in a manner which he knows or believes to be incorrect, intending thereby to cause or knowing it to be likely that he may thereby cause injury to any person, shall be punished with imprisonment of either description for a term which may extend to three years, or with fine, or with both. 25

Public servant unlawfully engaging in trade.

200. Whoever, being a public servant, and being legally bound as such public servant not to engage in trade, engages in trade, shall be punished with simple imprisonment for a term which may extend to one year, or with fine, or with both or with community service. 30

Public servant unlawfully buying or bidding for property.

201. Whoever, being a public servant, and being legally bound as such public servant, not to purchase or bid for certain property, purchases or bids for that property, either in his own name or in the name of another, or jointly, or in shares with others, shall be punished with simple imprisonment for a term which may extend to two years, or with fine, or with both; and the property, if purchased, shall be confiscated. 35

Personating a public servant.

202. Whoever pretends to hold any particular office as a public servant, knowing that he does not hold such office or falsely personates any other person holding such office, and in such assumed character does or attempts to do any act under colour of such office, shall be punished with imprisonment of either description for a term which shall not be less than six months but which may extend to three years and with fine. 40

Wearing garb or carrying token used by public servant with fraudulent intent.

203. Whoever, not belonging to a certain class of public servants, wears any garb or carries any token resembling any garb or token used by that class of public servants, with the intention that it may be believed, or with the knowledge that it is likely to be believed, that he belongs to that class of public servants, shall be punished with imprisonment of either description for a term which may extend to three months, or with fine which may extend to five thousand rupees, or with both. 45

CHAPTER XIII

OF CONTEMPTS OF THE LAWFUL AUTHORITY OF PUBLIC SERVANTS

204. Whoever absconds in order to avoid being served with a summons, notice or order proceeding from any public servant legally competent, as such public servant, to issue such summons, notice or order,—
- (a) shall be punished with simple imprisonment for a term which may extend to one month, or with fine which may extend to five thousand rupees, or with both;
- (b) where such summons or notice or order is to attend in person or by agent, or to produce a document or an electronic record in a Court shall punished with simple imprisonment for a term which may extend to six months, or with fine which may extend to ten thousand rupees, or with both.
205. Whoever in any manner intentionally prevents the serving on himself, or on any other person, of any summons, notice or order proceeding from any public servant legally competent, as such public servant, to issue such summons, notice or order, or intentionally prevents the lawful affixing to any place of any such summons, notice or order or intentionally removes any such summons, notice or order from any place to which it is lawfully affixed or intentionally prevents the lawful making of any proclamation, under the authority of any public servant legally competent, as such public servant, to direct such proclamation to be made,—
- (a) shall be punished with simple imprisonment for a term which may extend to one month or with fine which may extend to five thousand rupees, or with both;
- (b) where the summons, notice, order or proclamation is to attend in person or by agent, or to produce a document or electronic record in a Court with simple imprisonment for a term which may extend to six months, or with fine which may extend to ten thousand rupees, or with both.
206. Whoever, being legally bound to attend in person or by an agent at a certain place and time in obedience to a summons, notice, order, or proclamation proceeding from any public servant legally competent, as such public servant, to issue the same, intentionally omits to attend at that place or time or departs from the place where he is bound to attend before the time at which it is lawful for him to depart,—
- (a) shall be punished with simple imprisonment for a term which may extend to one month, or with fine which may extend to five thousand rupees, or with both;
- (b) where the summons, notice, order or proclamation is to attend in person or by agent in a Court with simple imprisonment for a term which may extend to six months, or with fine which may extend to ten thousand rupees, or with both.
- Illustrations.*
- (a) A, being legally bound to appear before a High Court, in obedience to a subpoena issuing from that Court, intentionally omits to appear. A has committed the offence defined in this section.
- (b) A, being legally bound to appear before a District Judge, as a witness, in obedience to a summons issued by that District Judge intentionally omits to appear. A has committed the offence defined in this section.
207. Whoever fails to appear at the specified place and the specified time as required by a proclamation published under sub-section (1) of section 84 of the Bhartiya Nagarik Suraksha Sanhita, 2023 shall be punished with imprisonment for a term which may extend to three years or with fine or with both or with community service, and where a declaration has been made under sub-section (4) of that section pronouncing him as a proclaimed offender, he shall be punished with imprisonment for a term which may extend to seven years and shall also be liable to fine.

Absconding to avoid service of summons or other proceeding.

Preventing service of summons or other proceeding, or preventing publication thereof.

Non-attendance in obedience to an order from public servant.

Non-appearance in response to a proclamation under section 82 of Bhartiya Nagarik Suraksha Sunhita 2023.

Omission to produce document to public servant by person legally bound to produce it.

208. Whoever, being legally bound to produce or deliver up any document or electronic record to any public servant, as such, intentionally omits so to produce or deliver up the same,—

(a) shall be punished with simple imprisonment for a term which may extend to one month, or with fine which may extend to five thousand rupees, or with both; 5

(b) and where the document or electronic record is to be produced or delivered up to a Court with simple imprisonment for a term which may extend to six months, or with fine which may extend to ten thousand rupees, or with both.

Illustration.

A, being legally bound to produce a document before a District Court, intentionally omits to produce the same. A has committed the offence defined in this section. 10

Omission to give notice or information to public servant by person legally bound to give it.

209. Whoever, being legally bound to give any notice or to furnish information on any subject to any public servant, as such, intentionally omits to give such notice or to furnish such information in the manner and at the time required by law,—

(a) shall be punished with simple imprisonment for a term which may extend to one month, or with fine which may extend to five thousand rupees, or with both; 15

(b) where the notice or information required to be given respects the commission of an offence, or is required for the purpose of preventing the commission of an offence, or in order to the apprehension of an offender, with simple imprisonment for a term which may extend to six months, or with fine which may extend to ten thousand rupees, or with both; 20

(c) where the notice or information required to be given is required by an order passed under section 447 of the Bhartiya Nagarik Suraksha Sanhita, 2023 with imprisonment of either description for a term which may extend to six months, or with fine which may extend to one thousand rupees, or with both. 25

Furnishing false information.

210. Whoever, being legally bound to furnish information on any subject to any public servant, as such, furnishes, as true, information on the subject which he knows or has reason to believe to be false,—

(a) shall be punished with simple imprisonment for a term which may extend to six months, or with fine which may extend to five thousand rupees, or with both; 30

(b) where the information which he is legally bound to give respects the commission of an offence, or is required for the purpose of preventing the commission of an offence, or in order to the apprehension of an offender, with imprisonment of either description for a term which may extend to two years, or with fine, or with both.

Illustrations. 35

(a) A, a landholder, knowing of the commission of a murder within the limits of his estate, wilfully misinforms the Magistrate of the district that the death has occurred by accident in consequence of the bite of a snake. A is guilty of the offence defined in this section.

(b) A, a village watchman, knowing that a considerable body of strangers has passed through his village in order to commit a dacoity in the house of Z, residing in a neighbouring place, and being section 28 of the Bhartiya Nagarik Suraksha Sanhita, 2023 to give early and punctual information of the above fact to the officer of the nearest police-station, wilfully misinforms the police officer that a body of suspicious characters passed through the village with a view to commit dacoity in a certain distant place in a different direction. Here A is guilty of the offence defined in the latter part of this section. 45

Explanation.—In section 209 and in this section the word “offence” include any act committed at any place out of India, which, if committed in India, would be punishable under any of the following sections, namely, 97, 99, 172, 173, 174, 175, 301, clauses (b) to (d) of section 303, sections 304, 305, 306, 320, 325 and 326 and the word “offender”
5 includes any person who is alleged to have been guilty of any such act.

211. Whoever refuses to bind himself by an oath or affirmation to state the truth, when required so to bind himself by a public servant legally competent to require that he shall so bind himself, shall be punished with simple imprisonment for a term which may extend to six months, or with fine which may extend to five thousand rupees, or with both.
- 10 212. Whoever, being legally bound to state the truth on any subject to any public servant, refuses to answer any question demanded of him touching that subject by such public servant in the exercise of the legal powers of such public servant, shall be punished with simple imprisonment for a term which may extend to six months, or with fine which may extend to five thousand rupees, or with both.
- 15 213. Whoever refuses to sign any statement made by him, when required to sign that statement by a public servant legally competent to require that he shall sign that statement, shall be punished with simple imprisonment for a term which may extend to three months, or with fine which may extend to three thousand rupees, or with both.
- 20 214. Whoever, being legally bound by an oath or affirmation to state the truth on any subject to any public servant or other person authorised by law to administer such oath or affirmation, makes, to such public servant or other person as aforesaid, touching that subject, any statement which is false, and which he either knows or believes to be false or does not believe to be true, shall be punished with imprisonment of either description for a term which may extend to three years, and shall also be liable to fine.
- 25 215. Whoever gives to any public servant any information which he knows or believes to be false, intending thereby to cause, or knowing it to be likely that he will thereby cause, such public servant—
- (a) to do or omit anything which such public servant ought not to do or omit if the true state of facts respecting which such information is given were known by
30 him; or
- (b) to use the lawful power of such public servant to the injury or annoyance of any person,
- shall be punished with imprisonment of either description for a term which may extend to one year, or with fine which may extend to ten thousand rupees, or with both.

Refusing oath or affirmation when duly required by public servant to make it.

Refusing to answer public servant authorised to question.

Refusing to sign statement.

False statement on oath or affirmation to public servant or person authorised to administer an oath or affirmation.

False information, with intent to cause public servant to use his lawful power to the injury of another person.

35 *Illustrations.*

- (a) A informs a Magistrate that Z, a police-officer, subordinate to such Magistrate, has been guilty of neglect of duty or misconduct, knowing such information to be false, and knowing it to be likely that the information will cause the Magistrate to dismiss Z. A has committed the offence defined in this section.
- 40 (b) A falsely informs a public servant that Z has contraband salt in a secret place, knowing such information to be false, and knowing that it is likely that the consequence of the information will be a search of Z’s premises, attended with annoyance to Z. A has committed the offence defined in this section.

(c) A falsely informs a policeman that he has been assaulted and robbed in the neighbourhood of a particular village. He does not mention the name of any person as one of his assailants, but knows it to be likely that in consequence of this information the police will make enquiries and institute searches in the village to the annoyance of the villagers or some of them. A has committed an offence under this section. 5

Resistance to the taking of property by the lawful authority of a public servant.

216. Whoever offers any resistance to the taking of any property by the lawful authority of any public servant, knowing or having reason to believe that he is such public servant, shall be punished with imprisonment of either description for a term which may extend to six months, or with fine which may extend to ten thousand rupees, or with both. 10

Obstructing sale of property offered for sale by authority of public servant.

217. Whoever intentionally obstructs any sale of property offered for sale by the lawful authority of any public servant, as such, shall be punished with imprisonment of either description for a term which may extend to one month, or with fine which may extend to five thousand rupees, or with both.

Illegal purchase or bid for property offered for sale by authority of public servant.

218. Whoever, at any sale of property held by the lawful authority of a public servant, as such, purchases or bids for any property on account of any person, whether himself or any other, whom he knows to be under a legal incapacity to purchase that property at that sale, or bids for such property not intending to perform the obligations under which he lays himself by such bidding, shall be punished with imprisonment of either description for a term which may extend to one month, or with fine which may extend to two hundred rupees, or with both. 15 20

Obstructing public servant in discharge of public functions.

219. Whoever voluntarily obstructs any public servant in the discharge of his public functions, shall be punished with imprisonment of either description for a term which may extend to three months, or with fine which may extend to two thousand five hundred rupees, or with both. 25

Omission to assist public servant when bound by law to give assistance.

220. Whoever, being bound by law to render or furnish assistance to any public servant in the execution of his public duty, intentionally omits to give such assistance,—

(a) shall be punished with simple imprisonment for a term which may extend to one month, or with fine which may extend to two thousand five hundred rupees, or with both; 30

(b) and where such assistance be demanded of him by a public servant legally competent to make such demand for the purposes of executing any process lawfully issued by a Court or of preventing the commission of an offence, or suppressing a riot, or affray, or of apprehending a person charged with or guilty of an offence, or of having escaped from lawful custody, shall be punished with simple imprisonment for a term which may extend to six months, or with fine which may extend to five thousand rupees, or with both. 35

Disobedience to order duly promulgated by public servant.

221. Whoever, knowing that, by an order promulgated by a public servant lawfully empowered to promulgate such order, he is directed to abstain from a certain act, or to take certain order with certain property in his possession or under his management, disobeys such direction,— 40

(a) shall, if such disobedience causes or tends to cause obstruction, annoyance or injury, or risk of obstruction, annoyance or injury, to any persons lawfully employed, be punished with simple imprisonment for a term which may extend to six months or with fine which may extend to two thousand five hundred rupees, or with both; 45

(b) and where such disobedience causes or tends to cause danger to human life, health or safety, or causes or tends to cause a riot or affray, shall be punished with imprisonment of either description for a term which may extend to one year, or with fine which may extend to five thousand rupees, or with both.

5 *Explanation.*—It is not necessary that the offender should intend to produce harm, or contemplate his disobedience as likely to produce harm. It is sufficient that he knows of the order which he disobeys, and that his disobedience produces, or is likely to produce, harm.

Illustration.

10 An order is promulgated by a public servant lawfully empowered to promulgate such order, directing that a religious procession shall not pass down a certain street. A knowingly disobeys the order, and thereby causes danger of riot. A has committed the offence defined in this section.

15 **222.** Whoever holds out any threat of injury to any public servant, or to any person in whom he believes that public servant to be interested, for the purpose of inducing that public servant to do any act, or to forbear or delay to do any act, connected with the exercise of the public functions of such public servant, shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both. Threat of injury to public servant.

20 **223.** Whoever holds out any threat of injury to any person for the purpose of inducing that person to refrain or desist from making a legal application for protection against any injury to any public servant legally empowered as such to give such protection, or to cause such protection to be given, shall be punished with imprisonment of either description for a term which may extend to one year, or with fine, or with both. Threat of injury to induce person to refrain from applying for protection to public servant.

25 **224.** Whoever attempts to commit suicide with the intent to compel or restrain any public servant from discharging his official duty shall be punished with simple imprisonment for a term which may extend to one year or with fine or with both or with community service. Attempt to commit suicide to compel or restraint exercise of lawful power.

CHAPTER XIV

OF FALSE EVIDENCE AND OFFENCES AGAINST PUBLIC JUSTICE

30 **225.** Whoever, being legally bound by an oath or by an express provision of law to state the truth, or being bound by law to make a declaration upon any subject, makes any statement which is false, and which he either knows or believes to be false or does not believe to be true, is said to give false evidence. Giving false evidence.

35 *Explanation 1.*—A statement is within the meaning of this section, whether it is made verbally or otherwise.

Explanation 2.—A false statement as to the belief of the person attesting is within the meaning of this section, and a person may be guilty of giving false evidence by stating that he believes a thing which he does not believe, as well as by stating that he knows a thing which he does not know.

40 *Illustrations.*

(a) A, in support of a just claim which B has against Z for one thousand rupees, falsely swears on a trial that he heard Z admit the justice of B's claim. A has given false evidence.

(b) A, being bound by an oath to state the truth, states that he believes a certain signature to be the handwriting of Z, when he does not believe it to be the handwriting of Z. Here A states that which he knows to be false, and therefore gives false evidence.

(c) A, knowing the general character of Z's handwriting, states that he believes a certain signature to be the handwriting of Z; A in good faith believing it to be so. Here A's statement is merely as to his belief, and is true as to his belief, and therefore, although the signature may not be the handwriting of Z, A has not given false evidence. 5

(d) A, being bound by an oath to state the truth, states that he knows that Z was at a particular place on a particular day, not knowing anything upon the subject. A gives false evidence whether Z was at that place on the day named or not. 10

(e) A, an interpreter or translator, gives or certifies as a true interpretation or translation of a statement or document which he is bound by oath to interpret or translate truly, that which is not and which he does not believe to be a true interpretation or translation. A has given false evidence.

Fabricating
false evidence.

226. Whoever causes any circumstance to exist or makes any false entry in any book or record, or electronic record or makes any document or electronic record containing a false statement, intending that such circumstance, false entry or false statement may appear in evidence in a judicial proceeding, or in a proceeding taken by law before a public servant as such, or before an arbitrator, and that such circumstance, false entry or false statement, so appearing in evidence, may cause any person who in such proceeding is to form an opinion upon the evidence, to entertain an erroneous opinion touching any point material to the result of such proceeding is said "to fabricate false evidence". 15 20

Illustrations.

(a) A puts jewels into a box belonging to Z, with the intention that they may be found in that box, and that this circumstance may cause Z to be convicted of theft. A has fabricated false evidence. 25

(b) A makes a false entry in his shop-book for the purpose of using it as corroborative evidence in a Court. A has fabricated false evidence.

(c) A, with the intention of causing Z to be convicted of a criminal conspiracy, writes a letter in imitation of Z's handwriting, purporting to be addressed to an accomplice in such criminal conspiracy, and puts the letter in a place which he knows that the officers of the police are likely to search. A has fabricated false evidence. 30

Punishment
for false
evidence.

227. (1) Whoever intentionally gives false evidence in any of a judicial proceeding, or fabricates false evidence for the purpose of being used in any stage of a judicial proceeding, shall be punished with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine which may extend to ten thousand rupees. 35

(2) Whoever intentionally gives or fabricates false evidence in any case other than that referred to in sub-section (1), shall be punished with imprisonment of either description for a term which may extend to three years, and shall also be liable to fine which may extend to five thousand rupees. 40

Explanation 1.—A trial before a Court-martial is a judicial proceeding.

Explanation 2.—An investigation directed by law preliminary to a proceeding before a Court is a stage of a judicial proceeding, though that investigation may not take place before a Court.

5

Illustration.

A, in an enquiry before a Magistrate for the purpose of ascertaining whether Z ought to be committed for trial, makes on oath a statement which he knows to be false. As this enquiry is a stage of a judicial proceeding, A has given false evidence.

Explanation 3.—An investigation directed by a Court according to law, and
10 conducted under the authority of a Court is a stage of a judicial proceeding, though that investigation may not take place before a Court.

Illustration.

A, in an enquiry before an officer deputed by a Court to ascertain on the spot the boundaries of land, makes on oath a statement which he knows to be false. As this
15 enquiry is a stage of a judicial proceeding, A has given false evidence.

228. (1) Whoever gives or fabricates false evidence, intending thereby to cause, or knowing it to be likely that he will thereby cause, any person to be convicted of an offence which is capital by the law for the time being in force in India shall be punished with imprisonment for life, or with rigorous imprisonment for a term which may extend to ten years, and shall also be liable to fine which may extend to fifty thousand rupees.

Giving or fabricating false evidence with intent to procure conviction of capital offence.

(2) If an innocent person be convicted and executed in consequence of false evidence referred in sub-section (1), the person who gives such false evidence shall be punished either with death or the punishment hereinbefore described.

229. Whoever gives or fabricates false evidence intending thereby to cause, or
25 knowing it to be likely that he will thereby cause, any person to be convicted of an offence which by the law for the time being in force in India is not capital, but punishable with imprisonment for life, or imprisonment for a term of seven years or upwards, shall be punished as a person convicted of that offence would be liable to be punished.

Giving or fabricating false evidence with intent to procure conviction of offence punishable with imprisonment for life or imprisonment.

Illustration.

A gives false evidence before a Court intending thereby to cause Z to be convicted of a dacoity. The punishment of dacoity is imprisonment for life, or rigorous imprisonment for a term which may extend to ten years, with or without fine. A, therefore, is liable to imprisonment for life or imprisonment, with or without fine.

230. (1) Whoever threatens another with any injury to his person, reputation or
35 property or to the person or reputation of any one in whom that person is interested, with intent to cause that person to give false evidence shall be punished with imprisonment of either description for a term which may extend to seven years, or with fine, or with both.

Threatening any person to give false evidence.

(2) If innocent person is convicted and sentenced in consequence of false evidence referred to in sub-section (1), with death or imprisonment for more than seven years, the
40 person who threatens shall be punished with the same punishment and sentence in the same manner and to the same extent such innocent person is punished and sentenced.

Using evidence known to be false.

231. Whoever corruptly uses or attempts to use as true or genuine evidence any evidence which he knows to be false or fabricated, shall be punished in the same manner as if he gave or fabricated false evidence.

Issuing or signing false certificate.

232. Whoever issues or signs any certificate required by law to be given or signed, or relating to any fact of which such certificate is by law admissible in evidence, knowing or believing that such certificate is false in any material point, shall be punished in the same manner as if he gave false evidence.

Using as true a certificate known to be false.

233. Whoever corruptly uses or attempts to use any such certificate as a true certificate, knowing the same to be false in any material point, shall be punished in the same manner as if he gave false evidence.

False statement made in declaration which is by law receivable as evidence.

234. Whoever, in any declaration made or subscribed by him, which declaration any Court or any public servant or other person, is bound or authorised by law to receive as evidence of any fact, makes any statement which is false, and which he either knows or believes to be false or does not believe to be true, touching any point material to the object for which the declaration is made or used, shall be punished in the same manner as if he gave false evidence.

Using as true such declaration knowing it to be false.

235. Whoever corruptly uses or attempts to use as true any such declaration, knowing the same to be false in any material point, shall be punished in the same manner as if he gave false evidence.

Explanation.—A declaration which is inadmissible merely upon the ground of some informality, is a declaration within the meaning of section 234 and this section.

Causing disappearance of evidence of offence, or giving false information to screen offender.

236. Whoever, knowing or having reason to believe that an offence has been committed, causes any evidence of the commission of that offence to disappear, with the intention of screening the offender from legal punishment, or with that intention gives any information respecting the offence which he knows or believes to be false shall,—

(a) if the offence which he knows or believes to have been committed is punishable with death be punished with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine;

(b) if the offence is punishable with imprisonment for life, or with imprisonment which may extend to ten years, be punished with imprisonment of either description for a term which may extend to three years, and shall also be liable to fine;

(c) if the offence is punishable with imprisonment for any term not extending to ten years, be punished with imprisonment of the description provided for the offence, for a term which may extend to one-fourth part of the longest term of the imprisonment provided for the offence, or with fine, or with both.

Illustration.

A, knowing that B has murdered Z, assists B to hide the body with the intention of screening B from punishment. A is liable to imprisonment of either description for seven years, and also to fine.

Intentional omission to give information of offence by person bound to inform.

237. Whoever, knowing or having reason to believe that an offence has been committed, intentionally omits to give any information respecting that offence which he is legally bound to give, shall be punished with imprisonment of either description for a term which may extend to six months, or with fine which may extend to five thousand rupees, or with both.

238. Whoever, knowing or having reason to believe that an offence has been committed, gives any information respecting that offence which he knows or believes to be false, shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both.

Giving false information respecting an offence committed.

5 *Explanation.*—In sections 236 and 237 and in this section the word “offence” includes any act committed at any place out of India, which, if committed in India, would be punishable under any of the following sections, namely, 97, 99, 172, 173, 174, 175, 301, 303, 304, 305, 306, 320, 325 and 326.

10 **239.** Whoever secretes or destroys any document or electronic record which he may be lawfully compelled to produce as evidence in a Court or in any proceeding lawfully held before a public servant, as such, or obliterates or renders illegible the whole or any part of such document or electronic record with the intention of preventing the same from being produced or used as evidence before such Court or public servant as aforesaid, or after he shall have been lawfully summoned or required to produce the same for that

15 purpose, shall be punished with imprisonment of either description for a term which may extend to three years, or with fine which may extend to five thousand rupees, or with both.

Destruction of document to prevent its production as evidence.

20 **240.** Whoever falsely personates another, and in such assumed character makes any admission or statement, or confesses judgment, or causes any process to be issued or becomes bail or security, or does any other act in any suit or criminal prosecution, shall be punished with imprisonment of either description for a term which may extend to three years, or with fine, or with both.

False personation for purpose of act or proceeding in suit or prosecution.

25 **241.** Whoever fraudulently removes, conceals, transfers or delivers to any person any property or any interest therein, intending thereby to prevent that property or interest therein from being taken as a forfeiture or in satisfaction of a fine, under a sentence which has been pronounced, or which he knows to be likely to be pronounced, by a Court or other competent authority, or from being taken in execution of a decree or order which has been made, or which he knows to be likely to be made by a Court in a civil suit, shall be punished with imprisonment of either description for a term which may extend to three years or with fine which may extend to five thousand rupees, or with both.

Fraudulent removal or concealment of property to prevent its seizure as forfeited or in execution.

30 **242.** Whoever fraudulently accepts, receives or claims any property or any interest therein, knowing that he has no right or rightful claim to such property or interest, or practices any deception touching any right to any property or any interest therein, intending thereby to prevent that property or interest therein from being taken as a forfeiture or in satisfaction of a fine, under a sentence which has been pronounced, or which he

35 knows to be likely to be pronounced by a Court or other competent authority, or from being taken in execution of a decree or order which has been made, or which he knows to be likely to be made by a Court in a civil suit, shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both.

Fraudulent claim to property to prevent its seizure as forfeited or in execution.

40 **243.** Whoever fraudulently causes or suffers a decree or order to be passed against him at the suit of any person for a sum not due or for a larger sum than is due to such person or for any property or interest in property to which such person is not entitled, or fraudulently causes or suffers a decree or order to be executed against him after it has been satisfied, or for anything in respect of which it has been satisfied, shall be punished with imprisonment of either description for a term which may extend to two years, or with

45 fine, or with both.

Fraudulently suffering decree for sum not due.

Illustration.

A institutes a suit against Z. Z, knowing that A is likely to obtain a decree against him, fraudulently suffers a judgment to pass against him for a larger amount at the suit of B, who has no just claim against him, in order that B, either on his own account or for the benefit of Z, may share in the proceeds of any sale of Z's property which may be made under A's decree. Z has committed an offence under this section. 5

Dishonestly making false claim in Court.

244. Whoever fraudulently or dishonestly, or with intent to injure or annoy any person, makes in a Court any claim which he knows to be false, shall be punished with imprisonment of either description for a term which may extend to two years, and shall also be liable to fine. 10

Fraudulently obtaining decree for sum not due.

245. Whoever fraudulently obtains a decree or order against any person for a sum not due, or for a larger sum than is due or for any property or interest in property to which he is not entitled, or fraudulently causes a decree or order to be executed against any person after it has been satisfied or for anything in respect of which it has been satisfied, or fraudulently suffers or permits any such act to be done in his name, shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both. 15

False charge of offence made with intent to injure.

246. Whoever, with intent to cause injury to any person, institutes or causes to be instituted any criminal proceeding against that person, or falsely charges any person with having committed an offence, knowing that there is no just or lawful ground for such proceeding or charge against that person,— 20

(a) shall be punished with imprisonment of either description for a term which may extend to five years, or with fine which may extend to two lakh rupees, or with both;

(b) if such criminal proceeding be instituted on a false charge of an offence punishable with death, imprisonment for life, or imprisonment for ten years or upwards, shall be punishable with imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine. 25

Harbouring offender.

247. Whenever an offence has been committed, whoever harbours or conceals a person whom he knows or has reason to believe to be the offender, with the intention of screening him from legal punishment shall,— 30

(a) if the offence is punishable with death, be punished with imprisonment of either description for a term which may extend to five years, and shall also be liable to fine;

(b) if the offence is punishable with imprisonment for life, or with imprisonment which may extend to ten years, be punished with imprisonment of either description for a term which may extend to three years, and shall also be liable to fine; 35

(c) if the offence is punishable with imprisonment which may extend to one year, and not to ten years, be punished with imprisonment of the description provided for the offence for a term which may extend to one-fourth part of the longest term of imprisonment provided for the offence, or with fine, or with both. 40

Explanation.—“Offence” in this section includes any act committed at any place out of India, which, if committed in India, would be punishable under any of the following sections, namely 97, 99, 172, 173, 174, 175, 301, 303, 304, 305, 306, 320, 325 and 326 and

every such act shall, for the purposes of this section, be deemed to be punishable as if the accused person had been guilty of it in India.

Exception.—This section shall not extend to any case in which the harbour or concealment is by the spouse of the offender.

5

Illustration.

A, knowing that B has committed dacoity, knowingly conceals B in order to screen him from legal punishment. Here, as B is liable to imprisonment for life, A is liable to imprisonment of either description for a term not exceeding three years, and is also liable to fine.

10

248. Whoever accepts or attempts to obtain, or agrees to accept, any gratification for himself or any other person, or any restitution of property to himself or any other person, in consideration of his concealing an offence or of his screening any person from legal punishment for any offence, or of his not proceeding against any person for the purpose of bringing him to legal punishment shall,—

Taking gift, etc., to screen an offender from punishment.

15

(a) if the offence is punishable with death, be punished with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine;

20

(b) if the offence is punishable with imprisonment for life, or with imprisonment which may extend to ten years, be punished with imprisonment of either description for a term which may extend to three years, and shall also be liable to fine;

(c) if the offence is punishable with imprisonment not extending to ten years, be punished with imprisonment of the description provided for the offence for a term which may extend to one-fourth part of the longest term of imprisonment provided for the offence, or with fine, or with both.

25

249. Whoever gives or causes, or offers or agrees to give or cause, any gratification to any person, or restores or causes the restoration of any property to any person, in consideration of that person's concealing an offence, or of his screening any person from legal punishment for any offence, or of his not proceeding against any person for the purpose of bringing him to legal punishment shall,—

Offering gift or restoration of property in consideration of screening offender.

30

(a) if the offence is punishable with death, be punished with imprisonment of either description for a term which may extend to seven years, and also be liable to fine;

35

(b) if the offence is punishable with imprisonment for life or with imprisonment which may extend to ten years, be punished with imprisonment of either description for a term which may extend to three years, and shall also be liable to fine;

(c) if the offence is punishable with imprisonment not extending to ten years, be punished with imprisonment of the description provided for the offence for a term which may extend to one-fourth part of the longest term of imprisonment provided for the offence, or with fine, or with both.

40

250. Whoever takes or agrees or consents to take any gratification under pretence or on account of helping any person to recover any movable property of which he shall have been deprived by any offence punishable under this Sanhita, shall, unless he uses all means in his power to cause the offender to be apprehended and convicted of the

Taking gift to help to recover stolen property, etc.

offence, be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both.

Harbouring offender who has escaped from custody or whose apprehension has been ordered.

251. Whenever any person convicted of or charged with an offence, being in lawful custody for that offence, escapes from such custody, or whenever a public servant, in the exercise of the lawful powers of such public servant, orders a certain person to be apprehended for an offence, whoever, knowing of such escape or order for apprehension, harbours or conceals that person with the intention of preventing him from being apprehended, shall be punished in the manner following, namely:—

(a) if the offence for which the person was in custody or is ordered to be apprehended is punishable with death, he shall be punished with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine;

(b) if the offence is punishable with imprisonment for life or imprisonment for ten years, he shall be punished with imprisonment of either description for a term which may extend to three years, with or without fine;

(c) if the offence is punishable with imprisonment which may extend to one year and not to ten years, he shall be punished with imprisonment of the description provided for the offence for a term which may extend to one-fourth part of the longest term of the imprisonment provided for such offence, or with fine, or with both.

Explanation.—“Offence” in this section includes also any act or omission of which a person is alleged to have been guilty out of India, which, if he had been guilty of it in India, would have been punishable as an offence, and for which he is, under any law relating to extradition, or otherwise, liable to be apprehended or detained in custody in India, and every such act or omission shall, for the purposes of this section, be deemed to be punishable as if the accused person had been guilty of it in India.

Exception.—The provision does not extend to the case in which the harbour or concealment is by the spouse of the person to be apprehended.

Penalty for harbouring robbers or dacoits.

252. Whoever, knowing or having reason to believe that any persons are about to commit or have recently committed robbery or dacoity, harbours them or any of them, with the intention of facilitating the commission of such robbery or dacoity, or of screening them or any of them from punishment, shall be punished with rigorous imprisonment for a term which may extend to seven years, and shall also be liable to fine.

Explanation.—For the purposes of this section it is immaterial whether the robbery or dacoity is intended to be committed, or has been committed, within or without India.

Exception.—This section does not extend to the case in which the harbour is by the spouse of the offender.

Public servant disobeying direction of law with intent to save person from punishment or property from forfeiture.

253. Whoever, being a public servant, knowingly disobeys any direction of the law as to the way in which he is to conduct himself as such public servant, intending thereby to save, or knowing it to be likely that he will thereby save, any person from legal punishment, or subject him to a less punishment than that to which he is liable, or with intent to save, or knowing that he is likely thereby to save, any property from forfeiture or any charge to which it is liable by law, shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both.

254. Whoever, being a public servant, and being as such public servant, charged with the preparation of any record or other writing, frames that record or writing in a manner which he knows to be incorrect, with intent to cause, or knowing it to be likely that he will thereby cause, loss or injury to the public or to any person, or with intent thereby to save, or knowing it to be likely that he will thereby save, any person from legal punishment, or with intent to save, or knowing that he is likely thereby to save, any property from forfeiture or other charge to which it is liable by law, shall be punished with imprisonment of either description for a term which may extend to three years, or with fine, or with both.

Public servant framing incorrect record or writing with intent to save person from punishment or property from forfeiture.

255. Whoever, being a public servant, corruptly or maliciously makes or pronounces in any stage of a judicial proceeding, any report, order, verdict, or decision which he knows to be contrary to law, shall be punished with imprisonment of either description for a term which may extend to seven years, or with fine, or with both.

Public servant in judicial proceeding corruptly making report, etc., contrary to law.

256. Whoever, being in any office which gives him legal authority to commit persons for trial or to confinement, or to keep persons in confinement, corruptly or maliciously commits any person for trial or to confinement, or keeps any person in confinement, in the exercise of that authority knowing that in so doing he is acting contrary to law, shall be punished with imprisonment of either description for a term which may extend to seven years, or with fine, or with both.

Commitment for trial or confinement by person having authority who knows that he is acting contrary to law.

257. Whoever, being a public servant, legally bound as such public servant to apprehend or to keep in confinement any person charged with or liable to be apprehended for an offence, intentionally omits to apprehend such person, or intentionally suffers such person to escape, or intentionally aids such person in escaping or attempting to escape from such confinement, shall be punished,—

Intentional omission to apprehend on the part of public servant bound to apprehend.

(a) with imprisonment of either description for a term which may extend to seven years, with or without fine, if the person in confinement, or who ought to have been apprehended, was charged with, or liable to be apprehended for, an offence punishable with death; or

(b) with imprisonment of either description for a term which may extend to three years, with or without fine, if the person in confinement, or who ought to have been apprehended, was charged with, or liable to be apprehended for, an offence punishable with imprisonment for life or imprisonment for a term which may extend to ten years; or

(c) with imprisonment of either description for a term which may extend to two years, with or without fine, if the person in confinement, or who ought to have been apprehended, was charged with, or liable to be apprehended for, an offence punishable with imprisonment for a term less than ten years.

258. Whoever, being a public servant, legally bound as such public servant to apprehend or to keep in confinement any person under sentence of a Court for any offence or lawfully committed to custody, intentionally omits to apprehend such person, or intentionally suffers such person to escape or intentionally aids such person in escaping or attempting to escape from such confinement, shall be punished,—

Intentional omission to apprehend on the part of public servant bound to apprehend person under sentence or lawfully committed.

(a) with imprisonment for life or with imprisonment of either description for a term which may extend to fourteen years, with or without fine, if the person in confinement, or who ought to have been apprehended, is under sentence of death; or

(b) with imprisonment of either description for a term which may extend to seven years, with or without fine, if the person in confinement or who ought to have been apprehended, is subject, by a sentence of a Court or by virtue of a commutation of such sentence, to imprisonment for life or imprisonment for a term of ten years, or upwards; or

5

(c) with imprisonment of either description for a term which may extend to three years, or with fine, or with both, if the person in confinement or who ought to have been apprehended is subject by a sentence of a Court to imprisonment for a term not extending to ten years or if the person was lawfully committed to custody.

Escape from confinement or custody negligently suffered by public servant.

259. Whoever, being a public servant legally bound as such public servant to keep in confinement any person charged with or convicted of any offence or lawfully committed to custody, negligently suffers such person to escape from confinement, shall be punished with simple imprisonment for a term which may extend to two years, or with fine, or with both.

10

Resistance or obstruction by a person to his lawful apprehension.

260. Whoever intentionally offers any resistance or illegal obstruction to the lawful apprehension of himself for any offence with which he is charged or of which he has been convicted, or escapes or attempts to escape from any custody in which he is lawfully detained for any such offence, shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both.

15

Explanation. —The punishment in this section is in addition to the punishment for which the person to be apprehended or detained in custody was liable for the offence with which he was charged, or of which he was convicted.

20

Resistance or obstruction to lawful apprehension of another person.

261. Whoever intentionally offers any resistance or illegal obstruction to the lawful apprehension of any other person for an offence, or rescues or attempts to rescue any other person from any custody in which that person is lawfully detained for an offence,—

25

(a) shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both;

(b) if the person to be apprehended, or the person rescued or attempted to be rescued, is charged with or liable to be apprehended for an offence punishable with imprisonment for life or imprisonment for a term which may extend to ten years, shall be punished with imprisonment of either description for a term which may extend to three years, and shall also be liable to fine;

30

(c) if the person to be apprehended, or rescued, or attempted to be rescued, is charged with or liable to be apprehended for an offence punishable with death, shall be punished with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine;

35

(d) if the person to be apprehended or rescued, or attempted to be rescued, is liable under the sentence of a Court or by virtue of a commutation of such a sentence, to imprisonment for life, or imprisonment, for a term of ten years, or upwards, shall be punished with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine;

40

(e) if the person to be apprehended or rescued, or attempted to be rescued, is under sentence of death, shall be punished with imprisonment for life or imprisonment of either description for a term not exceeding ten years, and shall also be liable to fine.

45

262. Whoever, being a public servant legally bound as such public servant to apprehend, or to keep in confinement, any person in any case not provided for in section 257, section 258 or section 259, or in any other law for the time being in force, omits to apprehend that person or suffers him to escape from confinement, shall be punished—

Omission to apprehend, or sufferance of escape, on part of public servant, in cases not otherwise, provided for.

5 (a) if he does so intentionally, with imprisonment of either description for a term which may extend to three years, or with fine or with both; and

(b) if he does so negligently, with simple imprisonment for a term which may extend to two years, or with fine, or with both.

10 **263.** Whoever, in any case not provided for in section 260 or section 261 or in any other law for the time being in force, intentionally offers any resistance or illegal obstruction to the lawful apprehension of himself or of any other person, or escapes or attempts to escape from any custody in which he is lawfully detained, or rescues or attempts to rescue any other person from any custody in which that person is lawfully detained, shall be punished with imprisonment of either description for a term which may extend to six months, 15 or with fine, or with both.

Resistance or obstruction to lawful apprehension or escape or rescue in cases not otherwise provided for.

20 **264.** Whoever, having accepted any conditional remission of punishment, knowingly violates any condition on which such remission was granted, shall be punished with the punishment to which he was originally sentenced, if he has already suffered no part of that punishment, and if he has suffered any part of that punishment, then with so much of that punishment as he has not already suffered.

Violation of condition of remission of punishment.

265. Whoever intentionally offers any insult, or causes any interruption to any public servant, while such public servant is sitting in any stage of a judicial proceeding, shall be punished with simple imprisonment for a term which may extend to six months, or with fine which may extend to five thousand rupees, or with both.

Intentional insult or interruption to public servant sitting in judicial proceeding.

25 **266.** Whoever, by personation or otherwise, shall intentionally cause, or knowingly suffer himself to be returned, empanelled or sworn as an assessor in any case in which he knows that he is not entitled by law to be so returned, empanelled or sworn, or knowing himself to have been so returned, empanelled or sworn contrary to law, shall voluntarily serve on such assessor, shall be punished with imprisonment of either description for a term 30 which may extend to two years, or with fine, or with both.

Personation of an assessor.

35 **267.** Whoever, having been charged with an offence and released on bail or on bond without sureties, fails without sufficient cause (the burden of proving which shall lie upon him), to appear in court in accordance with the terms of the bail or bond, shall be punished with imprisonment of either description for a term which may extend to one year, or with fine, or with both.

Failure by person released on bail or bond to appear in court.

Explanation.—The punishment under this section is—

(a) in addition to the punishment to which the offender would be liable on a conviction for the offence with which he has been charged; and

(b) without prejudice to the power of the court to order forfeiture of the bond.

40 **CHAPTER XV**

OF OFFENCES AFFECTING THE PUBLIC HEALTH, SAFETY, CONVENIENCE, DECENCY AND MORALS

45 **268.** A person is guilty of a public nuisance who does any act or is guilty of an illegal omission which causes any common injury, danger or annoyance to the public or to the people in general who dwell or occupy property in the vicinity, or which must necessarily cause injury, obstruction, danger or annoyance to persons who may have occasion to use any public right but a common nuisance is not excused on the ground that it causes some convenience or advantage.

Public nuisance.

Negligent act likely to spread infection of disease dangerous to life.	269. Whoever unlawfully or negligently does any act which is, and which he knows or has reason to believe to be, likely to spread the infection of any disease dangerous to life, shall be punished with imprisonment of either description for a term which may extend to six months, or with fine, or with both.	
Malignant act likely to spread infection of disease dangerous to life.	270. Whoever malignantly does any act which is, and which he knows or has reason to believe to be, likely to spread the infection of any disease dangerous to life, shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both.	5
Disobedience to quarantine rule.	271. Whoever knowingly disobeys any rule made by the Government for putting any mode of transport into a state of quarantine, or for regulating the intercourse of any such transport in a state of quarantine or for regulating the intercourse between places where an infectious disease prevails and other places, shall be punished with imprisonment of either description for a term which may extend to six months, or with fine, or with both.	10
Adulteration of food or drink intended for sale.	272. Whoever adulterates any article of food or drink, so as to make such article noxious as food or drink, intending to sell such article as food or drink, or knowing it to be likely that the same will be sold as food or drink, shall be punished with imprisonment of either description for a term which may extend to six months, or with fine which may extend to five thousand rupees, or with both.	15
Sale of noxious food or drink.	273. Whoever sells, or offers or exposes for sale, as food or drink, any article which has been rendered or has become noxious, or is in a state unfit for food or drink, knowing or having reason to believe that the same is noxious as food or drink, shall be punished with imprisonment of either description for a term which may extend to six months, or with fine which may extend to five thousand rupees, or with both.	20
Adulteration of drugs.	274. Whoever adulterates any drug or medical preparation in such a manner as to lessen the efficacy or change the operation of such drug or medical preparation, or to make it noxious, intending that it shall be sold or used for, or knowing it to be likely that it will be sold or used for, any medicinal purpose, as if it had not undergone such adulteration, shall be punished with imprisonment of either description for a term which may extend to one year, or with fine which may extend to five thousand rupees, or with both.	25
Sale of adulterated drugs.	275. Whoever, knowing any drug or medical preparation to have been adulterated in such a manner as to lessen its efficacy, to change its operation, or to render it noxious, sells the same, or offers or exposes it for sale, or issues it from any dispensary for medicinal purposes as unadulterated, or causes it to be used for medicinal purposes by any person not knowing of the adulteration, shall be punished with imprisonment of either description for a term which may extend to six months, or with fine which may extend to five thousand rupees, or with both.	30 35
Sale of drug as a different drug or preparation.	276. Whoever knowingly sells, or offers or exposes for sale, or issues from a dispensary for medicinal purposes, any drug or medical preparation, as a different drug or medical preparation, shall be punished with imprisonment of either description for a term which may extend to six months, or with fine which may extend to five thousand rupees, or with both.	40
Fouling water of public spring or reservoir.	277. Whoever voluntarily corrupts or fouls the water of any public spring or reservoir, so as to render it less fit for the purpose for which it is ordinarily used, shall be punished with imprisonment of either description for a term which may extend to six months, or with fine which may extend to five thousand rupees, or with both.	
Making atmosphere noxious to health.	278. Whoever voluntarily vitiates the atmosphere in any place so as to make it noxious to the health of persons in general dwelling or carrying on business in the neighbourhood or passing along a public way, shall be punished with fine which may extend to one thousand rupees.	45
Rash driving or riding on a public way.	279. Whoever drives any vehicle, or rides, on any public way in a manner so rash or negligent as to endanger human life, or to be likely to cause hurt or injury to any other	50

person, shall be punished with imprisonment of either description for a term which may extend to six months, or with fine which may extend to one thousand rupees, or with both.

5 **280.** Whoever navigates any vessel in a manner so rash or negligent as to endanger human life, or to be likely to cause hurt or injury to any other person, shall be punished with imprisonment of either description for a term which may extend to six months, or with fine which may extend to ten thousand rupees, or with both. Rash navigation of vessel.

10 **281.** Whoever exhibits any false light, mark or buoy, intending or knowing it to be likely that such exhibition will mislead any navigator, shall be punished with imprisonment of either description for a term which may extend to seven years, and with fine which shall not be less than ten thousand rupees. Exhibition of false light, mark or buoy.

15 **282.** Whoever knowingly or negligently conveys, or causes to be conveyed for hire, any person by water in any vessel, when that vessel is in such a state or so loaded as to endanger the life of that person, shall be punished with imprisonment of either description for a term which may extend to six months, or with fine which may extend to five thousand rupees, or with both. Conveying person by water for hire in unsafe or overloaded vessel.

283. Whoever, by doing any act, or by omitting to take order with any property in his possession or under his charge, causes danger, obstruction or injury to any person in any public way or public line of navigation, shall be punished, with fine which may extend to five thousand rupees. Danger or obstruction in public way or line of navigation.

20 **284.** Whoever does, with any poisonous substance, any act in a manner so rash or negligent as to endanger human life, or to be likely to cause hurt or injury to any person or knowingly or negligently omits to take such order with any poisonous substance in his possession as is sufficient to guard against any probable danger to human life from such poisonous substance, shall be punished with imprisonment of either description for a term which may extend to six months, or with fine which may extend to five thousand rupees, or with both. Negligent conduct with respect to poisonous substance.

30 **285.** Whoever does, with fire or any combustible matter, any act so rashly or negligently as to endanger human life, or to be likely to cause hurt or injury to any other person or knowingly or negligently omits to take such order with any fire or any combustible matter in his possession as is sufficient to guard against any probable danger to human life from such fire or combustible matter, shall be punished with imprisonment of either description for a term which may extend to six months, or with fine which may extend to two thousand rupees, or with both. Negligent conduct with respect to fire or combustible matter.

35 **286.** Whoever does, with any explosive substance, any act so rashly or negligently as to endanger human life, or to be likely to cause hurt or injury to any other person, or knowingly or negligently omits to take such order with any explosive substance in his possession as is sufficient to guard against any probable danger to human life from that substance, shall be punished with imprisonment of either description for a term which may extend to six months, or with fine which may extend to five thousand rupees, or with both. Negligent conduct with respect to explosive substance.

40 **287.** Whoever does, with any machinery, any act so rashly or negligently as to endanger human life or to be likely to cause hurt or injury to any other person or knowingly or negligently omits to take such order with any machinery in his possession or under his care as is sufficient to guard against any probable danger to human life from such machinery, shall be punished with imprisonment of either description for a term which may extend to six months, or with fine which may extend to five thousand rupees, or with both. Negligent conduct with respect to machinery.

45 **288.** Whoever, in pulling down, repairing or constructing any building, knowingly or negligently omits to take such measures with that building as is sufficient to guard against any probable danger to human life from the fall of that building, or of any part thereof, shall be punished with imprisonment of either description for a term which may extend to six months, or with fine which may extend to five thousand rupees, or with both. Negligent conduct with respect to pulling down, repairing or constructing buildings etc.

Negligent conduct with respect to animal.

289. Whoever knowingly or negligently omits to take such measures with any animal in his possession as is sufficient to guard against any probable danger to human life, or any probable danger of grievous hurt from such animal, shall be punished with imprisonment of either description for a term which may extend to six months, or with fine which may extend to five thousand rupees, or with both.

5

Punishment for public nuisance in cases not otherwise provided for.

290. Whoever commits a public nuisance in any case not otherwise punishable by this Sanhita shall be punished with fine which may extend to one thousand rupees.

Continuance of nuisance after injunction to discontinue.

291. Whoever repeats or continues a public nuisance, having been enjoined by any public servant who has lawful authority to issue such injunction not to repeat or continue such nuisance, shall be punished with simple imprisonment for a term which may extend to six months, or with fine which may extend to five thousand rupees, or with both.

10

Sale, etc., of obscene books, etc.

292. (1) For the purposes of sub-section (2), a book, pamphlet, paper, writing, drawing, painting, representation, figure or any other object, including display of any content in electronic form shall be deemed to be obscene if it is lascivious or appeals to the prurient interest or if its effect, or (where it comprises two or more distinct items) the effect of any one of its items, is, if taken as a whole, such as to tend to deprave and corrupt persons who are likely, having regard to all relevant circumstances, to read, see or hear the matter contained or embodied in it.

15

(2) Whoever—

(a) sells, lets to hire, distributes, publicly exhibits or in any manner puts into circulation, or for purposes of sale, hire, distribution, public exhibition or circulation, makes, produces or has in his possession any obscene book, pamphlet, paper, drawing, painting, representation or figure or any other obscene object whatsoever in whatever manner; or

20

(b) imports, exports or conveys any obscene object for any of the purposes aforesaid, or knowing or having reason to believe that such object will be sold, let to hire, distributed or publicly exhibited or in any manner put into circulation; or

25

(c) takes part in or receives profits from any business in the course of which he knows or has reason to believe that any such obscene objects are, for any of the purposes aforesaid, made produced, purchased, kept, imported, exported, conveyed, publicly exhibited or in any manner put into circulation; or

30

(d) advertises or makes known by any means whatsoever that any person is engaged or is ready to engage in any act which is an offence under this section, or that any such obscene object can be procured from or through any person; or

(e) offers or attempts to do any act which is an offence under this section,

35

shall be punished on first conviction with imprisonment of either description for a term which may extend to two years, and with fine which may extend to five thousand rupees, and, in the event of a second or subsequent conviction, with imprisonment of either description for a term which may extend to five years, and also with fine which may extend to ten thousand rupees.

40

Exception.—This section does not extend to—

(a) any book, pamphlet, paper, writing, drawing, painting, representation or figure—

(i) the publication of which is proved to be justified as being for the public good on the ground that such book, pamphlet, paper, writing, drawing, painting, representation or figure is in the interest of science, literature, art or learning or other objects of general concern; or

45

(ii) which is kept or used *bona fide* for religious purposes;

(b) any representation sculptured, engraved, painted or otherwise represented on or in—

(i) any ancient monument within the meaning of the Ancient Monuments and Archaeological Sites and Remains Act, 1958; or

(ii) any temple, or on any car used for the conveyance of idols, or kept or used for any religious purpose.

24 of 1958. 5

10 **293.** Whoever sells, lets to hire, distributes, exhibits or circulates to any child below the age of eighteen years such obscene object as is referred to in section 292, or offers or attempts so to do, shall be punished on first conviction with imprisonment of either description for a term which may extend to three years, and with fine which may extend to two thousand rupees, and, in the event of a second or subsequent conviction, with imprisonment of either description for a term which may extend to seven years, and also with fine which may extend to five thousand rupees.

Sale, etc., of obscene objects to child.

15 **294.** Whoever, to the annoyance of others,—

(a) does any obscene act in any public place; or

(b) sings, recites or utters any obscene song, ballad or words, in or near any public place,

Obscene acts and songs.

20 shall be punished with imprisonment of either description for a term which may extend to three months, or with fine which may extend to one thousand rupees, or with both.

295. (1) Whoever keeps any office or place for the purpose of drawing any lottery not being a State lottery or a lottery authorised by the State Government, shall be punished with imprisonment of either description for a term which may extend to six months, or with fine, or with both.

Keeping lottery office.

25 (2) Whoever publishes any proposal to pay any sum, or to deliver any goods, or to do or forbear from doing anything for the benefit of any person, on any event or contingency relative or applicable to the drawing of any ticket, lot, number or figure in any such lottery, shall be punished with fine which may extend to five thousand rupees.

CHAPTER XVI

30 OF OFFENCES RELATING TO RELIGION

35 **296.** Whoever destroys, damages or defiles any place of worship, or any object held sacred by any class of persons with the intention of thereby insulting the religion of any class of persons or with the knowledge that any class of persons is likely to consider such destruction, damage or defilement as an insult to their religion, shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both.

Injuring or defiling place of worship, with intent to insult the religion of any class.

40 **297.** Whoever, with deliberate and malicious intention of outraging the religious feelings of any class of citizens of India, by words, either spoken or written, or by signs or by visible representations or through electronic means or otherwise, insults or attempts to insult the religion or the religious beliefs of that class, shall be punished with imprisonment of either description for a term which may extend to three years, or with fine, or with both.

Deliberate and malicious acts, intended to outrage religious feelings of any class by insulting its religion or religious beliefs.

45 **298.** Whoever voluntarily causes disturbance to any assembly lawfully engaged in the performance of religious worship, or religious ceremonies, shall be punished with imprisonment of either description for a term which may extend to one year, or with fine, or with both.

Disturbing religious assembly.

Trespassing on
burial places,
etc.

299. Whoever, with the intention of wounding the feelings of any person, or of insulting the religion of any person or with the knowledge that the feelings of any person are likely to be wounded, or that the religion of any person is likely to be insulted thereby, commits any trespass in any place of worship or on any place of sepulture, or any place set apart for the performance of funeral rites or as a depository for the remains of the dead, or offers any indignity to any human corpse, or causes disturbance to any persons assembled for the performance of funeral ceremonies, shall be punished with imprisonment of either description for a term which may extend to one year, or with fine, or with both. 5

Uttering words,
etc., with
deliberate
intent to
wound religious
feelings.

300. Whoever, with the deliberate intention of wounding the religious feelings of any person, utters any word or makes any sound in the hearing of that person or makes any gesture in the sight of that persons or places any object in the sight of that person, shall be punished with imprisonment of either description for a term which may extend to one year, or with fine, or with both. 10

CHAPTER XVII

OF OFFENCES AGAINST PROPERTY

15

Theft.

301. (1) Whoever, intending to take dishonestly any movable property out of the possession of any person without that person's consent, moves that property in order to such taking, is said to commit theft.

Explanation 1.—A thing so long as it is attached to the earth, not being movable property, is not the subject of theft; but it becomes capable of being the subject of theft as soon as it is severed from the earth. 20

Explanation 2.—A moving effected by the same act which effects the severance may be a theft.

Explanation 3.—A person is said to cause a thing to move by removing an obstacle which prevented it from moving or by separating it from any other thing, as well as by actually moving it. 25

Explanation 4.—A person, who by any means causes an animal to move, is said to move that animal, and to move everything which, in consequence of the motion so caused, is moved by that animal.

Explanation 5.—The consent mentioned in this section may be express or implied, and may be given either by the person in possession, or by any person having for that purpose authority either express or implied. 30

Illustrations.

(a) A cuts down a tree on Z's ground, with the intention of dishonestly taking the tree out of Z's possession without Z's consent. Here, as soon as A has severed the tree in order to such taking, he has committed theft. 35

(b) A puts a bait for dogs in his pocket, and thus induces Z's dog to follow it. Here, if A's intention be dishonestly to take the dog out of Z's possession without Z's consent, A has committed theft as soon as Z's dog has begun to follow A.

(c) A meets a bullock carrying a box of treasure. He drives the bullock in a certain direction, in order that he may dishonestly take the treasure. As soon as the bullock begins to move, A has committed theft of the treasure. 40

(d) A being Z's servant, and entrusted by Z with the care of Z's plate, dishonestly runs away with the plate, without Z's consent. A has committed theft.

(e) Z, going on a journey, entrusts his plate to A, the keeper of a warehouse, till Z shall return. A carries the plate to a goldsmith and sells it. Here the plate was not in Z's possession. It could not therefore be taken out of Z's possession, and A has not committed theft, though he may have committed criminal breach of trust. 45

(f) A finds a ring belonging to Z on a table in the house which Z occupies. Here the ring is in Z's possession, and if A dishonestly removes it, A commits theft.

(g) A finds a ring lying on the highroad, not in the possession of any person. A, by taking it, commits no theft, though he may commit criminal misappropriation of property.

5 (h) A sees a ring belonging to Z lying on a table in Z's house. Not venturing to misappropriate the ring immediately for fear of search and detection, A hides the ring in a place where it is highly improbable that it will ever be found by Z, with the intention of taking the ring from the hiding place and selling it when the loss is forgotten. Here A, at the time of first moving the ring, commits theft.

10 (i) A delivers his watch to Z, a jeweler, to be regulated. Z carries it to his shop. A, not owing to the jeweler any debt for which the jeweler might lawfully detain the watch as a security, enters the shop openly, takes his watch by force out of Z's hand, and carries it away. Here A, though he may have committed criminal trespass and assault, has not committed theft, inasmuch as what he did was not done dishonestly.

15 (j) If A owes money to Z for repairing the watch, and if Z retains the watch lawfully as a security for the debt, and A takes the watch out of Z's possession, with the intention of depriving Z of the property as a security for his debt, he commits theft, inasmuch as he takes it dishonestly.

20 (k) Again, if A, having pawned his watch to Z, takes it out of Z's possession without Z's consent, not having paid what he borrowed on the watch, he commits theft, though the watch is his own property inasmuch as he takes it dishonestly.

(l) A takes an article belonging to Z out of Z's possession without Z's consent, with the intention of keeping it until he obtains money from Z as a reward for its restoration. Here A takes dishonestly; A has therefor committed theft.

25 (m) A, being on friendly terms with Z, goes into Z's library in Z's absence, and takes away a book without Z's express consent for the purpose merely of reading it, and with the intention of returning it. Here, it is probable that A may have conceived that he had Z's implied consent to use Z's book. If this was A's impression, A has not committed theft.

30 (n) A asks charity from Z's wife. She gives A money, food and clothes, which A knows to belong to Z her husband. Here it is probable that A may conceive that Z's wife is authorised to give away alms. If this was A's impression, A has not committed theft.

(o) A is the paramour of Z's wife. She gives a valuable property, which A knows to belong to her husband Z, and to be such property as she has no authority from Z to give. If A takes the property dishonestly, he commits theft.

35 (p) A, in good faith, believing property belonging to Z to be A's own property, takes that property out of Z's possession. Here, as A does not take dishonestly, he does not commit theft.

40 (2) Whoever commits theft shall be punished with imprisonment of either description for a term which may extend to three years, or with fine, or with both and in case of second or subsequent conviction of any person under this section, he shall be punished with rigorous imprisonment for a term which shall not be less than one year but which may extend to five years and with fine:

45 Provided that in cases of theft where the value of the stolen property is less than five thousand rupees, and a person is convicted for the first time, shall upon return of the value of property or restoration of the stolen property, shall be punished with community service.

Snatching.

302. (1) 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 moveable property.

(2) Whoever commits snatching, shall be punished with imprisonment of either description for a term which may extend to three years, and shall also be liable to fine. 5

Theft in a dwelling house, or means of transportation or place of worship, etc.

303. Whoever commits theft—

(a) in any building, tent or vessel used as a human dwelling or used for the custody of property; or

(b) of any means of transport used for the transport of goods or passengers; or

(c) of any article or goods from any means of transport used for the transport of goods or passengers; or 10

(d) of idol or icon in any place of worship; or

(e) of any property of the Government or of a local authority,

shall be punished with imprisonment of either description for a term which may extend to seven years and shall also be liable to fine. 15

Theft by clerk or servant of property in possession of master.

304. Whoever, being a clerk or servant, or being employed in the capacity of a clerk or servant, commits theft in respect of any property in the possession of his master or employer, shall be punished with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine.

Theft after preparation made for causing death, hurt or restraint in order to the committing of theft.

305. Whoever commits theft, having made preparation for causing death, or hurt, or restraint, or fear of death, or of hurt, or of restraint, to any person, in order to the committing of such theft, or in order to the effecting of his escape after the committing of such theft, or in order to the retaining of property taken by such theft, shall be punished with rigorous imprisonment for a term which may extend to ten years, and shall also be liable to fine. 20

Illustrations.

(a) A commits theft on property in Z’s possession; and while committing this theft, he has a loaded pistol under his garment, having provided this pistol for the purpose of hurting Z in case Z should resist. A has committed the offence defined in this section. 25

(b) A picks Z’s pocket, having posted several of his companions near him, in order that they may restrain Z, if Z should perceive what is passing and should resist, or should attempt to apprehend A. A has committed the offence defined in this section. 30

Of Extortion

Extortion.

306. (1) Whoever intentionally puts any person in fear of any injury to that person, or to any other, and thereby dishonestly induces the person so put in fear to deliver to any person any property, or valuable security or anything signed or sealed which may be converted into a valuable security, commits “extortion”. 35

Illustrations.

(a) A threatens to publish a defamatory libel concerning Z unless Z gives him money. He thus induces Z to give him money. A has committed extortion.

(b) A threatens Z that he will keep Z’s child in wrongful confinement, unless Z will sign and deliver to A a promissory note binding Z to pay certain monies to A. Z signs and delivers the note. A has committed extortion. 40

(c) A threatens to send club-men to plough up Z’s field unless Z will sign and deliver to B a bond binding Z under a penalty to deliver certain produce to B, and thereby induces Z to sign and deliver the bond. A has committed extortion. 45

(d) A, by putting Z in fear of grievous hurt, dishonestly induces Z to sign or affix his seal to a blank paper and deliver it to A. Z signs and delivers the paper to A. Here, as the paper so signed may be converted into a valuable security. A has committed extortion.

5 (e) A threatens Z by sending a message through an electronic device that “Your child is in my possession, and will be put to death unless you send me one lakh rupees.” A thus induces Z to give him money. A has committed “extortion”.

(2) Whoever commits extortion shall be punished with imprisonment of either description for a term which may extend to seven years, or with fine, or with both.

10 (3) Whoever, in order to the committing of extortion, puts any person in fear, or attempts to put any person in fear, of any injury, shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both.

(4) Whoever, in order to the committing of extortion, puts or attempts to put any person in fear of death or of grievous hurt to that person or to any other, 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) Whoever commits extortion by putting any person in fear of death or of grievous hurt to that person or to any other, shall be punished with imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine.

20 (6) Whoever, in order to the committing of extortion, puts or attempts to put any person in fear of an accusation, against that person or any other, of having committed, or attempted to commit, an offence punishable with death or with imprisonment for life, or with imprisonment for a term which may extend to ten years, shall be punished with imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine.

25 (7) Whoever commits extortion by putting any person in fear of an accusation against that person or any other, of having committed or attempted to commit any offence punishable with death, or with imprisonment for life, or with imprisonment for a term which may extend to ten years, or of having attempted to induce any other person to commit such offence, shall be punished with imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine.

Of Robbery and Dacoity

307. (1) In all robbery there is either theft or extortion.

Robbery.

(2) Theft is “robbery” if, in order to the committing of the theft, or in committing the theft, or in carrying away or attempting to carry away property obtained by the theft, the offender, for that end voluntarily causes or attempts to cause to any person death or hurt or wrongful restraint, or fear of instant death or of instant hurt, or of instant wrongful restraint.

(3) Extortion is “robbery” if the offender, at the time of committing the extortion, is in the presence of the person put in fear, and commits the extortion by putting that person in fear of instant death, of instant hurt, or of instant wrongful restraint to that person or to some other person, and, by so putting in fear, induces the person so put in fear then and there to deliver up the thing extorted.

Explanation. —The offender is said to be present if he is sufficiently near to put the other person in fear of instant death, of instant hurt, or of instant wrongful restraint.

Illustrations

45 (a) A holds Z down, and fraudulently takes Z’s money and jewels from Z’s clothes, without Z’s consent. Here A has committed theft, and, in order to the committing of that theft, has voluntarily caused wrongful restraint to Z. A has therefore committed robbery.

(b) A meets Z on the high road, shows a pistol, and demands Z's purse. Z, in consequence, surrenders his purse. Here A has extorted the purse from Z by putting him in fear of instant hurt, and being at the time of committing the extortion in his presence. A has therefore committed robbery.

(c) A meets Z and Z's child on the high road. A takes the child, and threatens to fling it down a precipice, unless Z delivers his purse. Z, in consequence, delivers his purse. Here A has extorted the purse from Z, by causing Z to be in fear of instant hurt to the child who is there present. A has therefore committed robbery on Z. 5

(d) A obtains property from Z by saying "Your child is in the hands of my gang, and will be put to death unless you send us ten thousand rupees". This is extortion, and punishable as such: but it is not robbery, unless Z is put in fear of the instant death of his child. 10

(2) Whoever commits robbery shall be punished with rigorous imprisonment for a term which may extend to ten years, and shall also be liable to fine; and, if the robbery be committed on the highway between sunset and sunrise, the imprisonment may be extended to fourteen years. 15

(3) Whoever attempts to commit robbery shall be punished with rigorous imprisonment for a term which may extend to seven years, and shall also be liable to fine.

(4) If any person, in committing or in attempting to commit robbery, voluntarily causes hurt, such person, and any other person jointly concerned in committing or attempting to commit such robbery, shall be punished with imprisonment for life, or with rigorous imprisonment for a term which may extend to ten years, and shall also be liable to fine. 20

Dacoity.

308. (1) When five or more persons conjointly commit or attempt to commit a robbery, or where the whole number of persons conjointly committing or attempting to commit a robbery, and persons present and aiding such commission or attempt, amount to five or more, every person so committing, attempting or aiding, is said to commit "dacoity". 25

(2) Whoever commits dacoity shall be punished with imprisonment for life, or with rigorous imprisonment for a term which may extend to ten years, and shall also be liable to fine.

(3) If any one of five or more persons, who are conjointly committing dacoity, commits murder in so committing dacoity, every one of those persons shall be punished with death, or imprisonment for life, or rigorous imprisonment for a term which shall not be less than ten years, and shall also be liable to fine. 30

(4) Whoever makes any preparation for committing dacoity, shall be punished with rigorous imprisonment for a term which may extend to ten years, and shall also be liable to fine. 35

(5) Whoever is one of five or more persons assembled for the purpose of committing dacoity, shall be punished with rigorous imprisonment for a term which may extend to seven years, and shall also be liable to fine.

(6) Whoever belongs to a gang of persons associated for the purpose of habitually committing dacoity, shall be punished with imprisonment for life, or with rigorous imprisonment for a term which may extend to ten years, and shall also be liable to fine. 40

Robbery, or dacoity, with attempt to cause death or grievous hurt.

309. If, at the time of committing robbery or dacoity, the offender uses any deadly weapon, or causes grievous hurt to any person, or attempts to cause death or grievous hurt to any person, the imprisonment with which such offender shall be punished shall not be less than seven years. 45

Attempt to commit robbery or dacoity when armed with deadly weapon.

310. If, at the time of attempting to commit robbery or dacoity, the offender is armed with any deadly weapon, the imprisonment with which such offender shall be punished shall not be less than seven years.

311. Whoever belongs to any gang of persons associated in habitually committing theft or robbery, and not being a gang of dacoits, shall be punished with rigorous imprisonment for a term which may extend to seven years, and shall also be liable to fine.

Punishment for belonging to gang of robbers, dacoits, etc.

Of Criminal misappropriation of property.

5 **312.** Whoever dishonestly misappropriates or converts to his own use any movable property, shall be punished with imprisonment of either description for a term which shall not be less than six months but which may extend to two years and with fine.

Dishonest misappropriation of property.

Illustrations.

10 (a) A takes property belonging to Z out of Z's possession, in good faith believing at the time when he takes it, that the property belongs to himself. A is not guilty of theft; but if A, after discovering his mistake, dishonestly appropriates the property to his own use, he is guilty of an offence under this section.

15 (b) A, being on friendly terms with Z, goes into Z's library in Z's absence, and takes away a book without Z's express consent. Here, if A was under the impression that he had Z's implied consent to take the book for the purpose of reading it, A has not committed theft. But, if A afterwards sells the book for his own benefit, he is guilty of an offence under this section.

20 (c) A and B, being, joint owners of a horse. A takes the horse out of B's possession, intending to use it. Here, as A has a right to use the horse, he does not dishonestly misappropriate it. But, if A sells the horse and appropriates the whole proceeds to his own use, he is guilty of an offence under this section.

Explanation 1.—A dishonest misappropriation for a time only is a misappropriation within the meaning of this section.

Illustration.

25 A finds a Government promissory note belonging to Z, bearing a blank endorsement. A, knowing that the note belongs to Z, pledges it with a banker as a security for a loan, intending at a future time to restore it to Z. A has committed an offence under this section.

30 *Explanation 2.*—A person who finds property not in the possession of any other person, and takes such property for the purpose of protecting it for, or of restoring it to, the owner, does not take or misappropriate it dishonestly, and is not guilty of an offence; but he is guilty of the offence above defined, if he appropriates it to his own use, when he knows or has the means of discovering the owner, or before he has used reasonable means to discover and give notice to the owner and has kept the property a reasonable time to enable the owner to claim it.

35 What are reasonable means or what is a reasonable time in such a case, is a question of fact.

It is not necessary that the finder should know who is the owner of the property, or that any particular person is the owner of it; it is sufficient if, at the time of appropriating it, he does not believe it to be his own property, or in good faith believe that the real owner cannot be found.

40 *Illustrations.*

(a) A finds a rupee on the high road, not knowing to whom the rupee belongs, A picks up the rupee. Here A has not committed the offence defined in this section.

45 (b) A finds a letter on the road, containing a bank note. From the direction and contents of the letter he learns to whom the note belongs. He appropriates the note. He is guilty of an offence under this section.

(c) A finds a cheque payable to bearer. He can form no conjecture as to the person who has lost the cheque. But the name of the person, who has drawn the cheque, appears. A

knows that this person can direct him to the person in whose favour the cheque was drawn. A appropriates the cheque without attempting to discover the owner. He is guilty of an offence under this section.

(d) A sees Z drop his purse with money in it. A picks up the purse with the intention of restoring it to Z, but afterwards appropriates it to his own use. A has committed an offence under this section. 5

(e) A finds a purse with money, not knowing to whom it belongs; he afterwards discovers that it belongs to Z, and appropriates it to his own use. A is guilty of an offence under this section.

(f) A finds a valuable ring, not knowing to whom it belongs. A sells it immediately without attempting to discover the owner. A is guilty of an offence under this section. 10

Dishonest misappropriation of property possessed by deceased person at the time of his death.

313. Whoever dishonestly misappropriates or converts to his own use any property, knowing that such property was in the possession of a deceased person at the time of that person's decease, and has not since been in the possession of any person legally entitled to such possession, shall be punished with imprisonment of either description for a term which may extend to three years, and shall also be liable to fine, and if the offender at the time of such person's decease was employed by him as a clerk or servant, the imprisonment may extend to seven years. 15

Illustration.

Z dies in possession of furniture and money. His servant A, before the money comes into the possession of any person entitled to such possession, dishonestly misappropriates it. A has committed the offence defined in this section. 20

Of Criminal breach of trust

Criminal breach of trust.

314. (1) Whoever, being in any manner entrusted with property, or with any dominion over property, dishonestly misappropriates or converts to his own use that property, or dishonestly uses or disposes of that property in violation of any direction of law prescribing the mode in which such trust is to be discharged, or of any legal contract, express or implied, which he has made touching the discharge of such trust, or wilfully suffers any other person so to do, commits "criminal breach of trust". 25

Explanation 1.—A person, being an employer of an establishment whether exempted under section 17 of the Employees' Provident Funds and Miscellaneous Provisions Act, 1952 or not who deducts the employee's contribution from the wages payable to the employee for credit to a Provident Fund or Family Pension Fund established by any law for the time being in force, shall be deemed to have been entrusted with the amount of the contribution so deducted by him and if he makes default in the payment of such contribution to the said Fund in violation of the said law, shall be deemed to have dishonestly used the amount of the said contribution in violation of a direction of law as aforesaid. 30
19 of 1952. 35

Explanation 2.—A person, being an employer, who deducts the employees' contribution from the wages payable to the employee for credit to the Employees' State Insurance Fund held and administered by the Employees' State Insurance Corporation established under the Employees' State Insurance Act, 1948 shall be deemed to have been entrusted with the amount of the contribution so deducted by him and if he makes default in the payment of such contribution to the said Fund in violation of the said Act, shall be deemed to have dishonestly used the amount of the said contribution in violation of a direction of law as aforesaid. 40
34 of 1948. 45

Illustrations.

(a) A, being executor to the will of a deceased person, dishonestly disobeys the law which directs him to divide the effects according to the will, and appropriates them to his own use. A has committed criminal breach of trust.

(b) A is a warehouse-keeper Z going on a journey, entrusts his furniture to A, under a contract that it shall be returned on payment of a stipulated sum for warehouse room. A dishonestly sells the goods. A has committed criminal breach of trust.

(c) A, residing in Kolkata, is agent for Z, residing at Delhi. There is an express or implied contract between A and Z, that all sums remitted by Z to A shall be invested by A, according to Z's direction. Z remits a lakh of rupees to A, with directions to A to invest the same in Company's paper. A dishonestly disobeys the directions and employs the money in his own business. A has committed criminal breach of trust.

(d) But if A, in illustration (c), not dishonestly but in good faith, believing that it will be more for Z's advantage to hold shares in the Bank of Bengal, disobeys Z's directions, and buys shares in the Bank of Bengal, for Z, instead of buying Company's paper, here, though Z should suffer loss, and should be entitled to bring a civil action against A, on account of that loss, yet A, not having acted dishonestly, has not committed criminal breach of trust.

(e) A, a revenue-officer, is entrusted with public money and is either directed by law, or bound by a contract, express or implied, with the Government, to pay into a certain treasury all the public money which he holds. A dishonestly appropriates the money. A has committed criminal breach of trust.

(f) A, a carrier, is entrusted by Z with property to be carried by land or by water. A dishonestly misappropriates the property. A has committed criminal breach of trust.

(2) Whoever commits criminal breach of trust shall be punished with imprisonment of either description for a term which may extend to five years, or with fine, or with both.

(3) Whoever, being entrusted with property as a carrier, wharfinger or warehouse-keeper, commits criminal breach of trust in respect of such property, shall be punished with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine.

(4) Whoever, being a clerk or servant or employed as a clerk or servant, and being in any manner entrusted in such capacity with property, or with any dominion over property, commits criminal breach of trust in respect of that property, 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) Whoever, being in any manner entrusted with property, or with any dominion over property in his capacity of a public servant or in the way of his business as a banker, merchant, factor, broker, attorney or agent commits criminal breach of trust in respect of that property, shall be punished with imprisonment for life, or with imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine.

Of the Receiving of stolen property

315. (1) Property, the possession whereof has been transferred by theft or extortion or robbery or cheating, and property which has been criminally misappropriated or in respect of which criminal breach of trust has been committed, is designated as "stolen property", whether the transfer has been made, or the misappropriation or breach of trust has been committed, within or without India, but, if such property subsequently comes into the possession of a person legally entitled to the possession thereof, it then ceases to be stolen property.

(2) Whoever dishonestly receives or retains any stolen property, knowing or having reason to believe the same to be stolen property, 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 dishonestly receives or retains any stolen property, the possession whereof he knows or has reason to believe to have been transferred by the commission of

dacoity, or dishonestly receives from a person, whom he knows or has reason to believe to belong or to have belonged to a gang of dacoits, property which he knows or has reason to believe to have been stolen, shall be punished with imprisonment for life, or with rigorous imprisonment for a term which may extend to ten years, and shall also be liable to fine.

(4) Whoever habitually receives or deals in property which he knows or has reason to believe to be stolen property, shall be punished with imprisonment for life, or with imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine. 5

(5) Whoever voluntarily assists in concealing or disposing of or making away with property which he knows or has reason to believe to be stolen property, shall be punished with imprisonment of either description for a term which may extend to three years, or with fine, or with both. 10

Of Cheating

Cheating.

316. (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”. 15

Explanation.—A dishonest concealment of facts is a deception within the meaning of this section. 20

Illustrations.

(a) A, by falsely pretending to be in the Civil Service, intentionally deceives Z, and thus dishonestly induces Z to let him have on credit goods for which he does not mean to pay. A cheats.

(b) A, by putting a counterfeit mark on an article, intentionally deceives Z into a belief that this article was made by a certain celebrated manufacturer, and thus dishonestly induces Z to buy and pay for the article. A cheats. 25

(c) A, by exhibiting to Z a false sample of an article intentionally deceives Z into believing that the article corresponds with the sample, and thereby dishonestly induces Z to buy and pay for the article. A cheats. 30

(d) A, by tendering in payment for an article a bill on a house with which A keeps no money, and by which A expects that the bill will be dishonoured, intentionally deceives Z, and thereby dishonestly induces Z to deliver the article, intending not to pay for it. A cheats.

(e) A, by pledging as diamond articles which he knows are not diamonds, intentionally deceives Z, and thereby dishonestly induces Z to lend money. A cheats. 35

(f) A intentionally deceives Z into a belief that A means to repay any money that Z may lend to him and thereby dishonestly induces Z to lend him money, A not intending to repay it. A cheats.

(g) A intentionally deceives Z into a belief that A means to deliver to Z a certain quantity of indigo plant which he does not intend to deliver, and thereby dishonestly induces Z to advance money upon the faith of such delivery. A cheats; but if A, at the time of obtaining the money, intends to deliver the indigo plant, and afterwards breaks his contract and does not deliver it, he does not cheat, but is liable only to a civil action for breach of contract. 40

(h) A intentionally deceives Z into a belief that A has performed A’s part of a contract made with Z, which he has not performed, and thereby dishonestly induces Z to pay money. A cheats. 45

(i) A sells and conveys an estate to B. A, knowing that in consequence of such sale he has no right to the property, sells or mortgages the same to Z, without disclosing the fact of the previous sale and conveyance to B, and receives the purchase or mortgage money from Z. A cheats.

5 (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
10 of either description for a term which may extend to five years, or with 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
15 which may extend to seven years, and shall also be liable to fine.

317. (1) A person is said to “cheat by personation” if he cheats by pretending to be some other person, or by knowingly substituting one person for or another, or representing that he or any other person is a person other than he or such other person really is. Cheating by personation.

Explanation. —The offence is committed whether the individual personated is a real
20 or imaginary person.

Illustrations.

(a) A cheats by pretending to be a certain rich banker of the same name. A cheats by personation.

(b) A cheats by pretending to be B, a person who is deceased. A cheats by personation.

25 (2) Whoever cheats by personation shall be punished with imprisonment of either description for a term which may extend to five years, or with fine, or with both.

Of fraudulent deeds and dispositions of property

318. Whoever dishonestly or fraudulently removes, conceals or delivers to any person, or transfers or causes to be transferred to any person, without adequate consideration, any
30 property, intending thereby to prevent, or knowing it to be likely that he will thereby prevent, the distribution of that property according to law among his creditors or the creditors of any other person, shall be punished with imprisonment of either description for a term which shall not be less than six months but which may extend to two years, or with fine, or with both.

35 **319.** Whoever dishonestly or fraudulently prevents any debt or demand due to himself or to any other person from being made available according to law for payment of his debt or the debts of such other person, shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both.

40 **320.** Whoever dishonestly or fraudulently signs, executes or becomes a party to any deed or instrument which purports to transfer or subject to any charge, any property, or any interest therein, and which contains any false statement relating to the consideration for such transfer or charge, or relating to the person or persons for whose use or benefit it is really intended to operate, shall be punished with imprisonment of either description for a term which may extend to three years, or with fine, or with both.

Dishonest or fraudulent removal or concealment of property.

321. Whoever dishonestly or fraudulently conceals or removes any property of himself or any other person, or dishonestly or fraudulently assists in the concealment or removal thereof, or dishonestly releases any demand or claim to which he is entitled, shall be punished with imprisonment of either description for a term which may extend to three years, or with fine, or with both.

5

Of Mischief

Mischief.

322. (1) Whoever with intent to cause, or knowing that he is likely to cause, wrongful loss or damage to the public or to any person, causes the destruction of any property, or any such change in any property or in the situation thereof as destroys or diminishes its value or utility, or affects it injuriously, commits "mischief".

10

Explanation 1.—It is not essential to the offence of mischief that the offender should intend to cause loss or damage to the owner of the property injured or destroyed. It is sufficient if he intends to cause, or knows that he is likely to cause, wrongful loss or damage to any person by injuring any property, whether it belongs to that person or not.

Explanation 2.—Mischief may be committed by an act affecting property belonging to the person who commits the act, or to that person and others jointly.

15

Illustrations.

(a) A voluntarily burns a valuable security belonging to Z intending to cause wrongful loss to Z. A has committed mischief.

(b) A introduces water in to an ice-house belonging to Z and thus causes the ice to melt, intending wrongful loss to Z. A has committed mischief.

20

(c) A voluntarily throws into a river a ring belonging to Z, with the intention of thereby causing wrongful loss to Z. A has committed mischief.

(d) A, knowing that his effects are about to be taken in execution in order to satisfy a debt due from him to Z, destroys those effects, with the intention of thereby preventing Z from obtaining satisfaction of the debt, and of thus causing damage to Z. A has committed mischief.

25

(e) A having insured a ship, voluntarily causes the same to be cast away, with the intention of causing damage to the underwriters. A has committed mischief.

(f) A cause a ship to be cast away, intending thereby to cause damage to Z who has lent money on bottomry on the ship. A has committed mischief.

30

(g) A, having joint property with Z in a horse, shoots the horse, intending thereby to cause wrongful loss to Z. A has committed mischief.

(h) A causes cattle to enter upon a field belonging to Z, intending to cause and knowing that he is likely to cause damage to Z's crop. A has committed mischief.

35

(2) Whoever commits mischief shall be punished with imprisonment of either description for a term which may extend to six months, or with fine, or with both.

(3) Whoever commits mischief and thereby causes loss or damage to any property including the property of Government or Local Authority shall be punished with imprisonment of either description for a term which may extend to one year, or with fine, or with both.

40

(4) Whoever commits mischief and thereby causes loss or damage to the amount of twenty thousand rupees and more but less than one lakh rupees shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both.

(5) Whoever commits mischief and thereby causes loss or damage to the amount of one lakh rupees or upwards, shall be punished with imprisonment of either description for a term which may extend to five years, or with fine, or with both.

45

(6) Whoever commits mischief, having made preparation for causing to any person death, or hurt, or wrongful restraint, or fear of death, or of hurt, or of wrongful restraint, shall be punished with imprisonment of either description for a term which may extend to five years, and shall also be liable to fine.

5 **323.** Whoever commits mischief by killing, poisoning, maiming or rendering useless any animal shall be punished with imprisonment of either description for a term which may extend to five years, or with fine, or with both.

Mischief by killing or maiming animal.

324. Whoever commits mischief by,—

Mischief by injury, inundation, fire or explosive substance, etc.

10 (a) doing any act which causes, or which he knows to be likely to cause, a diminution of the supply of water for agricultural purposes, or for food or drink for human beings or for animals which are property, or for cleanliness or for carrying on any manufacture, shall be punished with imprisonment of either description for a term which may extend to five years, or with fine, or with both;

15 (b) doing any act which renders or which he knows to be likely to render any public road, bridge, navigable river or navigable channel, natural or artificial, impassable or less safe for travelling or conveying property, shall be punished with imprisonment of either description for a term which may extend to five years, or with fine, or with both;

20 (c) doing any act which causes or which he knows to be likely to cause an inundation or an obstruction to any public drainage attended with injury or damage, shall be punished with imprisonment of either description for a term which may extend to five years, or with fine, or with both;

25 (d) destroying or moving any sign or signal used for navigation of rail, aircraft or ship or other thing placed as a guide for navigators, or by any act which renders any such sign or signal less useful as a guide for navigators, shall be punished with imprisonment of either description for a term which may extend to seven years, or with fine, or with both;

30 (e) destroying or moving any land-mark fixed by the authority of a public servant, or by any act which renders such land-mark less useful as such, shall be punished with imprisonment of either description for a term which may extend to one year, or with fine, or with both;

35 (f) fire or any explosive substance intending to cause, or knowing it to be likely that he will thereby cause, damage to any property including agricultural produce, shall be punished with imprisonment of either description for a term which may extend to seven years and shall also be liable to fine;

40 (g) fire or any explosive substance, intending to cause, or knowing it to be likely that he will thereby cause, the destruction of any building which is ordinarily used as a place of worship or as a human dwelling or as a place for the custody of property, shall be punished with imprisonment for life, or with imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine.

45 **325. (1)** Whoever commits mischief to any rail, aircraft, or a decked vessel or any vessel of a burden of twenty tons or upwards, intending to destroy or render unsafe, or knowing it to be likely that he will thereby destroy or render unsafe, that rail, aircraft or vessel, shall be punished with imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine.

Mischief with intent to destroy or make unsafe a rail, aircraft, decked vessel or one of twenty tons burden.

(2) Whoever commits, or attempts to commit, by fire or any explosive substance, such mischief as is described in sub-section (1), shall be punished with imprisonment for life or with imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine.

Punishment for intentionally running vessel aground or ashore with intent to commit theft, etc.

326. Whoever intentionally runs any vessel aground or ashore, intending to commit theft of any property contained therein or to dishonestly misappropriate any such property, or with intent that such theft or misappropriation of property may be committed, shall be punished with imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine.

5

Of criminal trespass

Criminal trespass and house-trespass.

327. (1) Whoever enters into or upon property in the possession of another with intent to commit an offence or to intimidate, insult or annoy any person in possession of such property or having lawfully entered into or upon such property, unlawfully remains there with intent thereby to intimidate, insult or annoy any such person or with intent to commit an offence is said to commit "criminal trespass".

10

(2) Whoever commits criminal trespass by entering into or remaining in any building, tent or vessel used as a human dwelling or any building used as a place for worship, or as a place for the custody of property, is said to commit "house-trespass".

Explanation.—The introduction of any part of the criminal trespasser's body is entering sufficient to constitute house-trespass.

15

(3) Whoever commits criminal trespass shall be punished with imprisonment of either description for a term which may extend to three months, or with fine which may extend to five thousand rupees, or with both.

(4) Whoever commits house-trespass shall be punished with imprisonment of either description for a term which may extend to one year, or with fine which may extend to five thousand rupees, or with both.

20

House-trespass and house-breaking.

328. (1) Whoever commits house-trespass having taken precautions to conceal such house-trespass from some person who has a right to exclude or eject the trespasser from the building, tent or vessel which is the subject of the trespass, is said to commit "lurking house-trespass".

25

(2) A person is said to commit "house-breaking" who commits house-trespass if he effects his entrance into the house or any part of it in any of the six ways hereinafter described; or if, being in the house or any part of it for the purpose of committing an offence, or having committed an offence therein, he quits the house or any part of it in any of following ways, namely:—

30

(a) if he enters or quits through a passage made by himself, or by any abettor of the house-trespass, in order to the committing of the house-trespass;

(b) if he enters or quits through any passage not intended by any person, other than himself or an abettor of the offence, for human entrance; or through any passage to which he has obtained access by scaling or climbing over any wall or building;

35

(c) if he enters or quits through any passage which he or any abettor of the house-trespass has opened, in order to the committing of the house-trespass by any means by which that passage was not intended by the occupier of the house to be opened;

40

(d) if he enters or quits by opening any lock in order to the committing of the house-trespass, or in order to the quitting of the house after a house-trespass;

(e) if he effects his entrance or departure by using criminal force or committing an assault, or by threatening any person with assault;

(f) if he enters or quits by any passage which he knows to have been fastened against such entrance or departure, and to have been unfastened by himself or by an abettor of the house-trespass.

45

Explanation.—Any out-house or building occupied with a house, and between which and such house there is an immediate internal communication, is part of the house within the meaning of this section.

Illustrations.

5 (a) A commits house-trespass by making a hole through the wall of Z's house, and putting his hand through the aperture. This is house-breaking.

(b) A commits house-trespass by creeping into a ship at a port-hole between decks. This is house-breaking.

10 (c) A commits house-trespass by entering Z's house through a window. This is house-breaking.

(d) A commits house-trespass by entering Z's house through the door, having opened a door which was fastened. This is house-breaking.

(e) A commits house-trespass by entering Z's house through the door, having lifted a latch by putting a wire through a hole in the door. This is house-breaking.

15 (f) A finds the key of Z's house door, which Z had lost, and commits house-trespass by entering Z's house, having opened the door with that key. This is house-breaking.

(g) Z is standing in his doorway. A forces a passage by knocking Z down, and commits house-trespass by entering the house. This is house-breaking.

20 (h) Z, the door-keeper of Y, is standing in Y's doorway. A commits house-trespass by entering the house, having deterred Z from opposing him by threatening to beat him. This is house-breaking.

329. (1) Whoever commits lurking house-trespass or house-breaking, shall be punished with imprisonment of either description for a term which may extend to two years, and shall also be liable to fine. Punishment for house-trespass or house-breaking.

25 (2) Whoever commits lurking house-trespass or house-breaking after sunset and before sunrise, shall be punished with imprisonment of either description for a term which may extend to three years, and shall also be liable to fine.

30 (3) Whoever commits lurking house-trespass or house-breaking, in order to the committing of any offence punishable with imprisonment, shall be punished with imprisonment of either description for a term which may extend to three years, and shall also be liable to fine; and if the offence intended to be committed is theft, the term of the imprisonment may be extended to ten years.

35 (4) Whoever commits lurking house-trespass or house-breaking after sunset and before sunrise, in order to the committing of any offence punishable with imprisonment, shall be punished with imprisonment of either description for a term which may extend to five years, and shall also be liable to fine; and, if the offence intended to be committed is theft, the term of the imprisonment may be extended to fourteen years.

40 (5) Whoever commits lurking house-trespass, or house-breaking, having made preparation for causing hurt to any person, or for assaulting any person, or for wrongfully restraining any person, or for putting any person in fear of hurt or of assault or of wrongful restraint, shall be punished with imprisonment of either description or a term which may extend to ten years, and shall also be liable to fine.

45 (6) Whoever commits lurking house-trespass or house-breaking after sunset and before sunrise, having made preparation for causing hurt to any person or for assaulting any person, or for wrongfully restraining any person, or for putting any person in fear of hurt, or of assault, or of wrongful restraint, shall be punished with imprisonment of either description for a term which may extend to fourteen years, and shall also be liable to fine.

(7) Whoever, whilst committing lurking house-trespass or house-breaking, causes grievous hurt to any person or attempts to cause death or grievous hurt to any person, shall be punished with imprisonment for life, or imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine.

(8) If, at the time of the committing of lurking house-trespass or house-breaking after sunset and before sunrise, any person guilty of such offence shall voluntarily cause or attempt to cause death or grievous hurt to any person, every person jointly concerned in committing such lurking house-trespass or house-breaking after sunset and before sunrise, shall be punished with imprisonment for life, or with imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine.

House-trespass
in order to
commit
offence.

330. Whoever commits house-trespass in order to the committing of any offence—

(a) punishable with death, shall be punished with imprisonment for life, or with rigorous imprisonment for a term not exceeding ten years, and shall also be liable to fine;

(b) punishable with imprisonment for life, shall be punished with imprisonment of either description for a term not exceeding ten years, and shall also be liable to fine;

(c) punishable with imprisonment, shall be punished with imprisonment of either description for a term which may extend to two years, and shall also be liable to fine:

Provided that if the offence intended to be committed is theft, the term of the imprisonment may be extended to seven years.

House-trespass
after
preparation for
hurt, assault or
wrongful
restraint.

331. Whoever commits house-trespass, having made preparation for causing hurt to any person or for assaulting any person, or for wrongfully restraining any person, or for putting any person in fear of hurt, or of assault, or of wrongful restraint, shall be punished with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine.

Dishonestly
breaking open
receptacle
containing
property.

332. (1) Whoever dishonestly or with intent to commit mischief, breaks open or unfastens any closed receptacle which contains or which he believes to contain property, shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both.

(2) Whoever, being entrusted with any closed receptacle which contains or which he believes to contain property, without having authority to open the same, dishonestly, or with intent to commit mischief, breaks open or unfastens that receptacle, shall be punished with imprisonment of either description for a term which may extend to three years, or with fine, or with both.

CHAPTER XVIII

OF OFFENCES RELATING TO DOCUMENTS AND TO PROPERTY MARKS

Making a false
document.

333. A person is said to make a false document or false electronic record—

(A) Who dishonestly or fraudulently—

(i) makes, signs, seals or executes a document or part of a document;

(ii) makes or transmits any electronic record or part of any electronic record;

(iii) affixes any electronic signature on any electronic record;

(iv) makes any mark denoting the execution of a document or the authenticity of the electronic signature,

with the intention of causing it to be believed that such document or part of document, electronic record or electronic signature was made, signed, sealed, executed, transmitted or

affixed by or by the authority of a person by whom or by whose authority he knows that it was not made, signed, sealed, executed or affixed; or

5 (B) Who without lawful authority, dishonestly or fraudulently, by cancellation or otherwise, alters a document or an electronic record in any material part thereof, after it has been made, executed or affixed with electronic signature either by himself or by any other person, whether such person be living or dead at the time of such alteration; or

10 (C) Who dishonestly or fraudulently causes any person to sign, seal, execute or alter a document or an electronic record or to affix his electronic signature on any electronic record knowing that such person by reason of mental illness or intoxication cannot, or that by reason of deception practised upon him, he does not know the contents of the document or electronic record or the nature of the alteration.

Illustrations.

15 (a) A has a letter of credit upon B for rupees 10,000, written by Z. A, in order to defraud B, adds cipher to the 10,000, and makes the sum 1,00,000 intending that it may be believed by B that Z so wrote the letter. A has committed forgery.

(b) A, without Z's authority, affixes Z's seal to a document purporting to be a conveyance of an estate from Z to A, with the intention of selling the estate to B and thereby of obtaining from B the purchase-money. A has committed forgery.

20 (c) A picks up a cheque on a banker signed by B, payable to bearer, but without any sum having been inserted in the cheque. A fraudulently fills up the cheque by inserting the sum of ten thousand rupees. A commits forgery.

25 (d) A leaves with B, his agent, a cheque on a banker, signed by A, without inserting the sum payable and authorises B to fill up the cheque by inserting a sum not exceeding ten thousand rupees for the purpose of making certain payments. B fraudulently fills up the cheque by inserting the sum of twenty thousand rupees. B commits forgery.

30 (e) A draws a bill of exchange on himself in the name of B without B's authority, intending to discount it as a genuine bill with a banker and intending to take up the bill on its maturity. Here, as A draws the bill with intent to deceive the banker by leading him to suppose that he had the security of B, and thereby to discount the bill, A is guilty of forgery.

(f) Z's will contains these words—"I direct that all my remaining property be equally divided between A, B and C." A dishonestly scratches out B's name, intending that it may be believed that the whole was left to himself and C. A has committed forgery.

35 (g) A endorses a Government promissory note and makes it payable to Z or his order by writing on the bill the words "Pay to Z or his order" and signing the endorsement. B dishonestly erases the words "Pay to Z or his order", and thereby converts the special endorsement into a blank endorsement. B commits forgery.

40 (h) A sells and conveys an estate to Z. A afterwards, in order to defraud Z of his estate, executes a conveyance of the same estate to B, dated six months earlier than the date of the conveyance to Z, intending it to be believed that he had conveyed the estate to B before he conveyed it to Z. A has committed forgery.

(i) Z dictates his will to A. A intentionally writes down a different legatee named by Z, and by representing to Z that he has prepared the will according to his instructions, induces Z to sign the will. A has committed forgery.

45 (j) A writes a letter and signs it with B's name without B's authority, certifying that A is a man of good character and in distressed circumstances from unforeseen misfortune, intending by means of such letter to obtain alms from Z and other persons. Here, as A made a false document in order to induce Z to part with property, A has committed forgery.

(k) A without B's authority writes a letter and signs it in B's name certifying to A's character, intending thereby to obtain employment under Z. A has committed forgery in as much as he intended to deceive Z by the forged certificate, and thereby to induce Z to enter into an express or implied contract for service.

Explanation 1.—A man's signature of his own name may amount to forgery. 5

Illustrations.

(a) A signs his own name to a bill of exchange, intending that it may be believed that the bill was drawn by another person of the same name. A has committed forgery.

(b) A writes the word "accepted" on a piece of paper and signs it with Z's name, in order that B may afterwards write on the paper a bill of exchange drawn by B upon Z, and negotiate the bill as though it had been accepted by Z. A is guilty of forgery; and if B, knowing the fact, draws the bill upon the paper pursuant to A's intention, B is also guilty of forgery. 10

(c) A picks up a bill of exchange payable to the order of a different person of the same name. A endorses the bill in his own name, intending to cause it to be believed that it was endorsed by the person to whose order it was payable; here A has committed forgery. 15

(d) A purchases an estate sold under execution of a decree against B. B, after the seizure of the estate, in collusion with Z, executes a lease of the estate, to Z at a nominal rent and for a long period and dates the lease six months prior to the seizure, with intent to defraud A, and to cause it to be believed that the lease was granted before the seizure. B, though he executes the lease in his own name, commits forgery by antedating it. 20

(e) A, a trader, in anticipation of insolvency, lodges effects with B for A's benefit, and with intent to defraud his creditors; and in order to give a colour to the transaction, writes a promissory note binding himself to pay to B a sum for value received, and antedates the note, intending that it may be believed to have been made before A was on the point of insolvency. A has committed forgery under the first head of the definition. 25

Explanation 2.—The making of a false document in the name of a fictitious person, intending it to be believed that the document was made by a real person, or in the name of a deceased person, intending it to be believed that the document was made by the person in his lifetime, may amount to forgery. 30

Illustration.

A draws a bill of exchange upon a fictitious person, and fraudulently accepts the bill in the name of such fictitious person with intent to negotiate it. A commits forgery.

Explanation 3.—For the purposes of this section, the expression "affixing electronic signature" shall have the meaning assigned to it in clause (d) of sub-section (1) of section 2 of the Information Technology Act, 2000. 35

21 of 2000.

Forgery.

334. (1) Whoever makes any false document or false electronic record or part of a document or electronic record, with intent to cause damage or injury, to the public or to any person, or to support any claim or title, or to cause any person to part with property, or to enter into any express or implied contract, or with intent to commit fraud or that fraud may be committed, commits forgery. 40

(2) Whoever commits forgery shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both.

(3) Whoever commits forgery, intending that the document or electronic record forged shall be used for the purpose of cheating, shall be punished with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine. 45

(4) Whoever commits forgery, intending that the document or electronic record forged shall harm the reputation of any party, or knowing that it is likely to be used for that purpose, shall be punished with imprisonment of either description for a term which may extend to three years, and shall also be liable to fine.

5 **335.** Whoever forges a document or an electronic record, purporting to be a record or proceeding of or in a Court or an identity document issued by Government including voter identity card or Aadhaar Card, or a register of birth, marriage or burial, or a register kept by a public servant as such, or a certificate or document purporting to be made by a public servant in his official capacity, or an authority to institute or defend a suit, or to take any proceedings therein, or to confess judgment, or a power of attorney, shall be punished with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine.

Forgery of record of Court or of public register, etc.

Explanation.—For the purposes of this section, “register” includes any list, data or record of any entries maintained in the electronic form as defined in clause (r) of sub-section (I) of section 2 of the Information Technology Act, 2000.

21 of 2000. 15

20 **336.** Whoever forges a document which purports to be a valuable security or a will, or an authority to adopt a son, or which purports to give authority to any person to make or transfer any valuable security, or to receive the principal, interest or dividends thereon, or to receive or deliver any money, movable property, or valuable security, or any document purporting to be an acquaintance or receipt acknowledging the payment of money, or an acquaintance or receipt for the delivery of any movable property or valuable security, shall be punished with imprisonment for life, or with imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine.

Forgery of valuable security, will, etc.

25 **337.** Whoever has in his possession any document or electronic record, knowing the same to be forged and intending that the same shall fraudulently or dishonestly be used as genuine, shall, if the document or electronic record is one of the description mentioned in section 335 of this Sanhita, be punished with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine; and if the document is one of the description mentioned in section 336, shall be punished with imprisonment for life, or with imprisonment of either description, for a term which may extend to seven years, and shall also be liable to fine.

Having possession of document described in section 335 or 336, knowing it to be forged and intending to use it as genuine.

338. (1) A false document or electronic record made wholly or in part by forgery is designated “a forged document or electronic record”.

Forged document or electronic record and using it as genuine.

35 (2) Whoever fraudulently or dishonestly uses as genuine any document or electronic record which he knows or has reason to believe to be a forged document or electronic record, shall be punished in the same manner as if he had forged such document or electronic record.

40 **339.** (1) Whoever makes or counterfeits any seal, plate or other instrument for making an impression, intending that the same shall be used for the purpose of committing any forgery which would be punishable under section 336 of this Sanhita, or, with such intent, has in his possession any such seal, plate or other instrument, knowing the same to be counterfeit, shall be punished with imprisonment for life, or with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine.

Making or possessing counterfeit seal, etc., with intent to commit forgery punishable under section 336.

45 (2) Whoever makes or counterfeits any seal, plate or other instrument for making an impression, intending that the same shall be used for the purpose of committing any forgery which would be punishable under any section of this Chapter other than section 336, or, with such intent, has in his possession any such seal, plate or other instrument, knowing the same to be counterfeit, shall be punished with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine.

50 (3) Whoever possesses any seal, plate or other instrument knowing the same to be counterfeit, shall be punished with imprisonment of either description for a term which may extend to three years, and shall also be liable to fine.

(4) Whoever fraudulently or dishonestly uses as genuine any seal, plate or other instrument knowing or having reason to believe the same to be counterfeit, shall be punished in the same manner as if he had made or counterfeited such seal, plate or other instrument.

Counterfeiting device or mark used for authenticating documents described in section 336, or possessing counterfeit marked material.

340. (1) Whoever counterfeits upon, or in the substance of, any material, any device or mark used for the purpose of authenticating any document described in section 336 of this Sanhita, intending that such device or mark shall be used for the purpose of giving the appearance of authenticity to any document then forged or thereafter to be forged on such material, or who, with such intent, has in his possession any material upon or in the substance of which any such device or mark has been counterfeited, shall be punished with imprisonment for life, or with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine. 5 10

(2) Whoever counterfeits upon, or in the substance of, any material, any device or mark used for the purpose of authenticating any document or electronic record other than the documents described in section 336 of this Sanhita, intending that such device or mark shall be used for the purpose of giving the appearance of authenticity to any document then forged or thereafter to be forged on such material, or who with such intent, has in his possession any material upon or in the substance of which any such device or mark has been counterfeited, shall be punished with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine. 15

Fraudulent cancellation, destruction, etc., of will, authority to adopt, or valuable security.

341. Whoever fraudulently or dishonestly, or with intent to cause damage or injury to the public or to any person, cancels, destroys or defaces, or attempts to cancel, destroy or deface, or secretes or attempts to secrete any document which is or purports to be a will, or an authority to adopt a son, or any valuable security, or commits mischief in respect of such document, shall be punished with imprisonment for life, or with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine. 20 25

Falsification of accounts.

342. Whoever, being a clerk, officer or servant, or employed or acting in the capacity of a clerk, officer or servant, wilfully, and with intent to defraud, destroys, alters, mutilates or falsifies any book, electronic record, paper, writing, valuable security or account which belongs to or is in the possession of his employer, or has been received by him for or on behalf of his employer, or wilfully, and with intent to defraud, makes or abets the making of any false entry in, or omits or alters or abets the omission or alteration of any material particular from or in, any such book, electronic record, paper, writing, valuable security or account, shall be punished with imprisonment of either description for a term which may extend to seven years, or with fine, or with both. 30

Explanation.— It shall be sufficient in any charge under this section to allege a general intent to defraud without naming any particular person intended to be defrauded or specifying any particular sum of money intended to be the subject of the fraud, or any particular day on which the offence was committed. 35

Of Property marks

Property mark.

343. (1) A mark used for denoting that movable property belongs to a particular person is called a property mark. 40

(2) Whoever marks any movable property or goods or any case, package or other receptacle containing movable property or goods, or uses any case, package or other receptacle having any mark thereon, in a manner reasonably calculated to cause it to be believed that the property or goods so marked, or any property or goods contained in any such receptacle so marked, belong to a person to whom they do not belong, is said to use a false property mark. 45

(3) Whoever uses any false property mark shall, unless he proves that he acted without intent to defraud, be punished with imprisonment of either description for a term which may extend to one year, or with fine, or with both. 50

344. Whoever removes, destroys, defaces or adds to any property mark, intending or knowing it to be likely that he may thereby cause injury to any person, shall be punished with imprisonment of either description for a term which may extend to one year, or with fine, or with both. Tampering with property mark with intent to cause injury.
- 5 345. (1) Whoever counterfeits any property mark used by any other person shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both. Counterfeiting a property mark.
- (2) Whoever counterfeits any property mark used by a public servant, or any mark used by a public servant to denote that any property has been manufactured by a particular person or at a particular time or place, or that the property is of a particular quality or has passed through a particular office, or that it is entitled to any exemption, or uses as genuine any such mark knowing the same to be counterfeit, shall be punished with imprisonment of either description for a term which may extend to three years, and shall also be liable to fine. Making or possession of any instrument for counterfeiting a property mark.
- 10 346. Whoever makes or has in his possession any die, plate or other instrument for the purpose of counterfeiting a property mark, or has in his possession a property mark for the purpose of denoting that any goods belong to a person to whom they do not belong, shall be punished with imprisonment of either description for a term which may extend to three years, or with fine, or with both. Selling goods marked with a counterfeit property mark.
- 15 347. Whoever sells, or exposes, or has in possession for sale, any goods or things with a counterfeit property mark affixed to or impressed upon the same or to or upon any case, package or other receptacle in which such goods are contained, shall, unless he proves—
- 20 (a) that, having taken all reasonable precautions against committing an offence against this section, he had at the time of the commission of the alleged offence no reason to suspect the genuineness of the mark; and
- 25 (b) that, on demand made by or on behalf of the prosecutor, he gave all the information in his power with respect to the persons from whom he obtained such goods or things; or
- (c) that otherwise he had acted innocently,
- be punished with imprisonment of either description for a term which may extend to one year, or with fine, or with both. Making a false mark upon any receptacle containing goods.
- 30 348. (1) Whoever makes any false mark upon any case, package or other receptacle containing goods, in a manner reasonably calculated to cause any public servant or any other person to believe that such receptacle contains goods which it does not contain or that it does not contain goods which it does contain, or that the goods contained in such receptacle are of a nature or quality different from the real nature or quality thereof, shall, unless he proves that he acted without intent to defraud, be punished with imprisonment of either description for a term which may extend to three years, or with fine, or with both.
- (2) Whoever makes use of any false mark in any manner prohibited under sub-section (1) shall, unless he proves that he acted without intent to defraud, be punished as if he had committed the offence under sub-section (1). Criminal intimidation.
- 40

CHAPTER XIX

OF CRIMINAL INTIMIDATION, INSULT, ANNOYANCE, DEFAMATION, ETC.

349. (1) Whoever threatens by any means, another with any injury to his person, reputation or property, or to the person or reputation of any one in whom that person is interested, with intent to cause alarm to that person, or to cause that person to do any act which he is not legally bound to do, or to omit to do any act which that person is legally entitled to do, as the means of avoiding the execution of such threat, commits criminal intimidation.
- 45

Explanation.—A threat to injure the reputation of any deceased person in whom the person threatened is interested, is within this section.

Illustration.

A, for the purpose of inducing B to resist from prosecuting a civil suit, threatens to burn B's house. A is guilty of criminal intimidation. 5

(2) Whoever commits the offence of criminal intimidation shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both.

(3) Whoever commits the offence of criminal intimidation by treating to cause death or grievous hurt, or to cause the destruction of any property by fire, or to cause an offence punishable with death or imprisonment for life, or with imprisonment for a term which may extend to seven years, or to impute unchastity to a woman, shall be punished with imprisonment of either description for a term which may extend to seven years, or with fine, or with both. 10

(4) Whoever commits the offence of criminal intimidation by an anonymous communication, or having taken precaution to conceal the name or abode of the person from whom the threat comes, shall be punished with imprisonment of either description for a term which may extend to two years, in addition to the punishment provided for the offence under sub-section (1). 15

Intentional
insult with
intent to
provoke
breach of
peace.

350. Whoever intentionally insults in any manner, and thereby gives provocation to any person, intending or knowing it to be likely that such provocation will cause him to break the public peace, or to commit any other offence, shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both. 20

Statements
conducing to
public
mischief.

351. (1) Whoever makes, publishes or circulates any statement, false information, rumour, or report, including through electronic means— 25

(a) with intent to cause, or which is likely to cause, any officer, soldier, sailor or airman in the Army, Navy or Air Force of India to mutiny or otherwise disregard or fail in his duty as such; or

(b) with intent to cause, or which is likely to cause, fear or alarm to the public, or to any section of the public whereby any person may be induced to commit an offence against the State or against the public tranquility; or 30

(c) with intent to incite, or which is likely to incite, any class or community of persons to commit any offence against any other class or community,

shall be punished with imprisonment which may extend to three years, or with fine, or with both. 35

(2) Whoever makes, publishes or circulates any statement or report containing false information, rumour or alarming news, including through electronic means, with intent to create or promote, or which is likely to create or promote, on grounds of religion, race, place of birth, residence, language, caste or community or any other ground whatsoever, feelings of enmity, hatred or ill will between different religious, racial, language or regional groups or castes or communities shall be punished with imprisonment which may extend to three years, or with fine, or with both. 40

(3) Whoever commits an offence specified in sub-section (2) in any place of worship or in any assembly engaged in the performance of religious worship or religious ceremonies, shall be punished with imprisonment which may extend to five years and shall also be liable to fine. 45

Exception. —It does not amount to an offence, within the meaning of this section, when the person making, publishing or circulating any such statement, false information, rumour or report, has reasonable grounds for believing that such statement, false information, rumour or report is true and makes, publishes or circulates it in good faith and without any such intent as aforesaid.

352. Whoever voluntarily causes or attempts to cause any person to do anything which that person is not legally bound to do, or to omit to do anything which he is legally entitled to do, by inducing or attempting to induce that person to believe that he or any person in whom he is interested will become or will be rendered by some act of the offender an object of Divine displeasure if he does not do the thing which it is the object of the offender to cause him to do, or if he does the thing which it is the object of the offender to cause him to omit, shall be punished with imprisonment of either description for a term which may extend to one year, or with fine, or with both.

Act caused by inducing person to believe that he will be rendered an object of the Divine displeasure.

Illustrations.

(a) A sits dharna at Z's door with the intention of causing it to be believed that, by so sitting, he renders Z an object of Divine displeasure. A has committed the offence defined in this section.

(b) A threatens Z that, unless Z performs a certain act, A will kill one of A's own children, under such circumstances that the killing would be believed to render Z an object of Divine displeasure. A has committed the offence defined in this section.

353. Whoever, in a state of intoxication, appears in any public place, or in any place which it is a trespass in him to enter, and there conducts himself in such a manner as to cause annoyance to any person, shall be punished with simple imprisonment for a term which may extend to twenty-four hours, or with fine which may extend to one thousand rupees, or with both or with community service.

Misconduct in public by a drunken person.

Of Defamation

354. (1) Whoever, by words either spoken or intended to be read, or by signs or by visible representations, makes or publishes in any manner, any imputation concerning any person intending to harm, or knowing or having reason to believe that such imputation will harm, the reputation of such person, is said, except in the cases hereinafter excepted, to defame that person.

Defamation.

Explanation 1.—It may amount to defamation to impute anything to a deceased person, if the imputation would harm the reputation of that person if living, and is intended to be hurtful to the feelings of his family or other near relatives.

Explanation 2.—It may amount to defamation to make an imputation concerning a company or an association or collection of persons as such.

Explanation 3.—An imputation in the form of an alternative or expressed ironically, may amount to defamation.

Explanation 4.—No imputation is said to harm a person's reputation, unless that imputation directly or indirectly, in the estimation of others, lowers the moral or intellectual character of that person, or lowers the character of that person in respect of his caste or of his calling, or lowers the credit of that person, or causes it to be believed that the body of that person is in a loathsome state, or in a state generally considered as disgraceful.

Illustrations.

(a) A says— "Z is an honest man; he never stole B's watch"; intending to cause it to be believed that Z did steal B's watch. This is defamation, unless it falls within one of the exceptions.

(b) A is asked who stole B's watch. A points to Z, intending to cause it to be believed that Z stole B's watch. This is defamation, unless it falls within one of the exceptions.

(c) A draws a picture of Z running away with B's watch, intending it to be believed that Z stole B's watch. This is defamation, unless it falls within one of the exceptions.

Exception 1.— It is not defamation to impute anything which is true concerning any person, if it be for the public good that the imputation should be made or published. Whether or not it is for the public good is a question of fact. 5

Exception 2.— It is not defamation to express in good faith any opinion whatever respecting the conduct of a public servant in the discharge of his public functions, or respecting his character, so far as his character appears in that conduct, and no further.

Exception 3.— It is not defamation to express in good faith any opinion whatever respecting the conduct of any person touching any public question, and respecting his character, so far as his character appears in that conduct, and no further. 10

Illustration.

It is not defamation in A to express in good faith any opinion whatever respecting Z's conduct in petitioning Government on a public question, in signing a requisition for a meeting on a public question, in presiding or attending at such meeting, in forming or joining any society which invites the public support, in voting or canvassing for a particular candidate for any situation in the efficient discharge of the duties of which the public is interested. 15

Exception 4.—It is not defamation to publish substantially true report of the proceedings of a Court, or of the result of any such proceedings.

Explanation.—A Magistrate or other officer holding an enquiry in open Court preliminary to a trial in a Court, is a Court within the meaning of the above section. 20

Exception 5.—It is not defamation to express in good faith any opinion whatever respecting the merits of any case, civil or criminal, which has been decided by a Court, or respecting the conduct of any person as a party, witness or agent, in any such case, or respecting the character of such person, as far as his character appears in that conduct, and no further. 25

Illustrations.

(a) A says— "I think Z's evidence on that trial is so contradictory that he must be stupid or dishonest." A is within this exception if he says this in good faith, inasmuch as the opinion which he expresses respects Z's character as it appears in Z's conduct as a witness, and no further. 30

(b) But if A says— "I do not believe what Z asserted at that trial because I know him to be a man without veracity"; A is not within this exception, inasmuch as the opinion which express of Z's character, is an opinion not founded on Z's conduct as a witness.

Exception. 6—It is not defamation to express in good faith any opinion respecting the merits of any performance which its author has submitted to the judgment of the public, or respecting the character of the author so far as his character appears in such performance, and no further. 35

Explanation.—A performance may be submitted to the judgment of the public expressly or by acts on the part of the author which imply such submission to the judgment of the public. 40

Illustrations.

(a) A person who publishes a book, submits that book to the judgment of the public.

(b) A person who makes a speech in public, submits that speech to the judgment of the public. 45

(c) An actor or singer who appears on a public stage, submits his acting or singing to the judgment of the public.

(d) A says of a book published by Z—“Z’s book is foolish; Z must be a weak man. Z’s book is indecent; Z must be a man of impure mind.” A is within the exception, if he says this in good faith, inasmuch as the opinion which he expresses of Z respects Z’s character only so far as it appears in Z’s book, and no further.

5 (e) But if A says “I am not surprised that Z’s book is foolish and indecent, for he is a weak man and a libertine.” A is not within this exception, inasmuch as the opinion which he expresses of Z’s character is an opinion not founded on Z’s book.

Exception 7.—It is not defamation in a person having over another any authority, either conferred by law or arising out of a lawful contract made with that other, to pass in
10 good faith any censure on the conduct of that other in matters to which such lawful authority relates.

Illustration.

A Judge censuring in good faith the conduct of a witness, or of an officer of the Court; a head of a department censuring in good faith those who are under his orders, a parent
15 censuring in good faith a child in the presence of other children; a schoolmaster, whose authority is derived from a parent, censuring in good faith a pupil in the presence of other pupils; a master censuring a servant in good faith for remissness in service; a banker censuring in good faith the cashier of his bank for the conduct of such cashier as such cashier- are within this exception.

20 *Exception 8.*—It is not defamation to prefer in good faith an accusation against any person to any of those who have lawful authority over that person with respect to the subject-matter of accusation.

Illustration.

If A in good faith accuses Z before a Magistrate; if A in good faith complains of the
25 conduct of Z, a servant, to Z’s master; if A in good faith complains of the conduct of Z, a child, to Z’s father-A is within this exception.

Exception 9.— It is not defamation to make an imputation on the character of another provided that the imputation be made in good faith for the protection of the interests of the person making it, or of any other person, or for the public good.

30 *Illustrations.*

(a) A, a shopkeeper, says to B, who manages his business—“Sell nothing to Z unless he pays you ready money, for I have no opinion of his honesty.” A is within the exception, if he has made this imputation on Z in good faith for the protection of his own interests.

35 (b) A, a Magistrate, in making a report to his own superior officer, casts an imputation on the character of Z. Here, if the imputation is made in good faith, and for the public good, A is within the exception.

Exception 10.— It is not defamation to convey a caution, in good faith, to one person against another, provided that such caution be intended for the good of the person to whom it is conveyed, or of some person in whom that person is interested, or for the public good.

40 (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.

(3) Whoever prints or engraves any matter, knowing or having good reason to believe that such matter is defamatory of any person, shall be punished with simple imprisonment for a term which may extend to two years, or with fine, or with both.

45 (4) Whoever sells or offers for sale any printed or engraved substance containing defamatory matter, knowing that it contains such matter, shall be punished with simple imprisonment for a term which may extend to two years, or with fine, or with both.

Of breach of contract to attend on and supply wants of helpless person.

Breach of contract to attend on and supply wants of helpless person.

355. Whoever, being bound by a lawful contract to attend on or to supply the wants of any person who, by reason of youth, or of mental illness, or of a disease or bodily weakness, is helpless or incapable of providing for his own safety or of supplying his own wants, voluntarily omits so to do, shall be punished with imprisonment of either description for a term which may extend to three months, or with fine which may extend to five thousand rupees, or with both. 5

Repeal and savings.

356. (1) The Indian Penal Code is hereby repealed. 45 of 1860.

(2) Notwithstanding the repeal of the Code referred to in sub-section (1), it shall not affect,— 10

(a) the previous operation of the Code so repealed or anything duly done or suffered thereunder; or

(b) any right, privilege, obligation or liability acquired, accrued or incurred under the Code so repealed; or

(c) any penalty, or punishment incurred in respect of any offences committed against the Code so repealed; or 15

(d) any investigation or remedy in respect of any such penalty, or punishment; or

(e) any proceeding, investigation or remedy in respect of any such penalty or punishment as aforesaid, and any such proceeding or remedy may be instituted, continued or enforced, and any such penalty may be imposed as if that Code had not been repealed. 20

(3) Notwithstanding such repeal, anything done or any action taken under the said Code shall be deemed to have been done or taken under the corresponding provisions of this Sanhita.

(4) The mention of particular matters in sub-section (2) shall not be held to prejudice or affect the general application of section 6 of the General Clauses Act, 1897 with regard to the effect of the repeal. 25
10 of 1897.

STATEMENT OF OBJECTS AND REASONS

In the year 1834, the first Indian Law Commission was constituted under the Chairmanship of Lord Thomas Babington Macaulay to examine the jurisdiction, power and rules of the existing Courts as well as the police establishments and the laws in force in India.

2. The Commission suggested various enactments to the Government. One of the important recommendations made by the Commission was on, Indian Penal Code which was enacted in 1860 and the said Code is still continuing in the country with some amendments made thereto from time to time.

3. The Government of India considered it expedient and necessary to review the existing criminal laws with an aim to strengthen law and order and also focus on simplifying legal procedure so that ease of living is ensured to the common man. The Government also considered to make existing laws relevant to the contemporary situation and provide speedy justice to common man. Accordingly, various stakeholders were consulted keeping in mind contemporary needs and aspirations of the people and with a view to create a legal structure which is citizen centric and to secure life and liberty of the citizens.

4. Now, it is proposed to enact a new law, namely, the Bharatiya Nyaya Sanhita Bill, 2023 by repealing the Indian Penal Code to streamline provisions relating to offences and penalties. It is proposed to provide first time community service as one of the punishments for petty offences. The offences against women and children, murder and offences against the State have been given precedence. The various offences have been made gender neutral. In order to deal effectively with the problem of organised crimes and terrorist activities, new offences of terrorist acts and organised crime have been added in the Bill with deterrent punishments. A new offence on acts of secession, armed rebellion, subversive activities, separatist activities or endangering sovereignty or unity and integrity of India has also been added. The fines and punishment for various offences have also been suitably enhanced.

5. The Notes on Clauses explains the various provisions of the Bill.

6. The Bill seeks to achieve the above objectives.

NEW DELHI;
The 9th August, 2023.

AMIT SHAH.

NOTES ON CLAUSES

Clause 1 of the Bill seeks to provide short title, commencement and application of the proposed legislation.

Clause 2 of the Bill seeks to define certain words and expressions used in the proposed legislation such as act, omission, counterfeit, dishonestly, gender, good faith, offence, voluntarily, etc.

Clause 3 of the Bill seeks to provide general explanations and expressions enumerated in the proposed legislation subject to the exceptions contained in the "General Exceptions", Chapter.

Clause 4 of the Bill seeks to provide punishments for various offences provided under the provisions of the proposed Bill.

Clause 5 of the Bill seeks to empower the appropriate Government to commute the sentence of death or imprisonment for life.

Clause 6 of the Bill seeks to provide fractions of terms of punishment of imprisonment for life as equivalent to twenty years unless otherwise provided.

Clause 7 of the Bill seeks to provide for sentence which may be either wholly or partly rigorous or simple.

Clause 8 of the Bill seeks to provide for amount of fine in default of payment of fine and imprisonment in default of payment of fine.

Clause 9 of the Bill seeks to provide for the limit of punishment for several offences.

Clause 10 of the Bill seeks to provide for lowest punishment provided for an offence where it is doubtful among the commission of several offences.

Clause 11 of the Bill seeks to provide the power to court for solitary confinement.

Clause 12 of the Bill seeks to provide for limit of solitary confinement in certain cases.

Clause 13 of the Bill seeks to provide for enhanced punishment for certain offences after previous conviction.

Clause 14 of the Bill seeks to exempt a person who acts by mistake of fact and not by mistake of law in good faith believing himself to be bound by law to do it.

Clause 15 of the Bill seeks to provide that nothing is an offence which is done by a Judge when acting judicially in the exercise of any power which is, or which in good faith he believes to be, given to him by law.

Clause 16 of the Bill seeks to exempt a person from an offence when acting under a judgment or order notwithstanding that the Court had no jurisdiction to pass such judgment or order, provided the person doing the act in good faith believes that the Court had such jurisdiction.

Clause 17 of the Bill seeks to provide that nothing is an offence which is done by any person who is justified by law, or who by reason of a mistake of fact and not by reason of a mistake of law in good faith, believes himself to be justified by law, in doing it.

Clause 18 of the Bill seeks to provide that nothing is an offence which is done by accident or misfortune, and without any criminal intention or knowledge in the doing of a lawful act in a lawful manner by lawful means and with proper care and caution.

Clause 19 of the Bill seeks to provide that nothing is an offence merely by reason of its being done with the knowledge that it is likely to cause harm, if it be done without any criminal intention to cause harm, and in good faith for the purpose of preventing or avoiding other harm to person or property.

Clause 20 of the Bill seeks to provide that nothing is an offence which is done by a child under seven years of age.

Clause 21 of the Bill seeks to provide that nothing is an offence which is done by a child above seven years of age and under twelve, who has not attained sufficient maturity of understanding to judge of the nature and consequences of his conduct on that occasion.

Clause 22 of the Bill seeks to provide that nothing is an offence which is done by a person who, at the time of doing it, by reason of mental illness, is incapable of knowing the nature of the act, or that he is doing what is either wrong or contrary to law.

Clause 23 of the Bill seeks to provide that nothing is an offence which is done by a person under intoxication unless that the thing which intoxicated him was administered to him without his knowledge or against his will.

Clause 24 of the Bill seeks to provide that in cases where an act done is not an offence unless done with a particular knowledge or intent, a person who does the act in a state of intoxication shall be liable to be dealt with as if he had the same knowledge as he would have had if he had not been intoxicated, unless the thing which intoxicated him was administered to him without his knowledge or against his will.

Clause 25 of the Bill seeks to provide that nothing is an offence which is not intended to cause death, or grievous hurt when the harm done with consent of a person above eighteen years of age whether express or implied, to suffer that harm; or by reason of any harm which it may be known by the doer to be likely to cause to any such person who has consented to take the risk of that harm.

Clause 26 of the Bill seeks to provide that nothing is an offence when the act not intended to cause death done by consent in good faith and for persons' benefit.

Clause 27 of the Bill seeks to provide that nothing is an offence when an act is done in good faith for benefit of child or person with mental illness, by or by consent of guardian.

Clause 28 of the Bill seeks to provide that the consent is not a consent as intended by the proposed legislation when it is given under fear or misconception or by a person under twelve years of age.

Clause 29 of the Bill seeks to provide that exceptions in sections 21, 22 and 23 do not extend to acts which are offences independently of any harm which they may cause, or be intended to cause, or be known to be likely to cause, to the person giving the consent, or on whose behalf the consent is given.

Clause 30 of the Bill seeks to provide that nothing is an offence when act done in good faith for benefit of a person without consent if the circumstances are such that it is impossible for that person to signify consent, or if that person is incapable of giving consent, and has no guardian or other person in lawful charge of him from whom it is possible to obtain consent in time for the thing to be done with benefit.

Clause 31 of the Bill seeks to provide that no communication made in good faith is an offence by reason of any harm to the person to whom it is made, if it is made for the benefit of that person.

Clause 32 of the Bill seeks to provide that nothing is an offence done by a person except murder, and offences against the State punishable with death, which is done by a person who is compelled to do it by threats, which, at the time of doing it, reasonably cause the apprehension that instant death to that person will otherwise be the consequence.

Clause 33 of the Bill seeks to provide that nothing is an offence by reason that it causes, or that it is intended to cause, or that it is known to be likely to cause, any harm, if that harm is so slight that no person of ordinary sense and temper would complain of such harm.

Clause 34 of the Bill seeks to provide that nothing is an offence which is done in the exercise of the right of private defence.

Clause 35 of the Bill seeks to provide that every person has a right of private defence of the body and of property subject to the restrictions contained in the Bill.

Clause 36 of the Bill seeks to provide that nothing is an offence, when an act is done in exercise of right of private defence, due to want of maturity of understanding, the mental illness or the intoxication of the person doing that act, or by reason of any misconception on the part of that person, however, every person has the same right of private defence against that act which he would have if the act were that offence.

Clause 37 of the Bill seeks to provide certain acts against which the right of private defence does not extend.

Clause 38 of the Bill seeks to provide for certain circumstances where the right of private defence of the body extends to causing death.

Clause 39 of the Bill seeks to provide for certain circumstances when the right of taking private defence extends to causing harm other than death.

Clause 40 of the Bill seeks to provide that the right to private defence of the body starts as soon as reasonable apprehension of danger to the body arises and continues as long as such apprehension continues.

Clause 41 of the Bill seeks to provide for certain circumstances when the right of private defence of property extends to causing death.

Clause 42 of the Bill seeks to provide the circumstances when the right of private defence of property extends to causing any harm other than death.

Clause 43 of the Bill seeks to provide that the right of private defence of property starts as soon as reasonable apprehension of danger to the property commences and continues as long as such apprehension continues.

Clause 44 of the Bill seeks to provide that if in the exercise of the right of private defence against an assault which reasonably causes the apprehension of death and the defender is so situated that he cannot effectually exercise that right without risk of harm to an innocent person, his right of private defence extends to the running of that risk.

Clause 45 of the Bill seeks to provide the meaning of abetment to mean that instigation by any person to do a thing, or engages with one or more other person or persons in any conspiracy for the doing of that thing, if an act or illegal omission takes place in pursuance of that conspiracy, and in order to the doing of that thing, intentionally aids, by any act or illegal omission, the doing of that thing.

Clause 46 of the Bill seeks to provide that a person abets an offence, who abets either the commission of an offence, or the commission of an act which would be an offence, if committed by a person capable by law of committing an offence with the same intention or knowledge as that of the abettor.

Clause 47 of the Bill seeks to provide that a person abets an offence within the meaning of this Sanhita who, in India, abets the commission of any act without and beyond India which would constitute an offence if committed in India.

Clause 48 of the Bill seeks to provide that a person abets an offence within the meaning of this Sanhita who, without and beyond India, abets the commission of any act in India which would constitute an offence if committed in India.

Clause 49 of the Bill seeks to provide for the punishment of abetment if the act abetted is committed in consequence and where no express provision is made for its punishment.

Clause 50 of the Bill seeks to provide that punishment of abetment if person abetted does act with different intention from that of abettor.

Clause 51 of the Bill seeks to provide that when an Act is abetted and a different act is done, the abettor is liable for the act done, in the same manner and to the same extent as if he had directly abetted it, provided that the act done was a probable consequence of the abetment, and was committed under the influence of the instigation, or with the aid or in pursuance of the conspiracy which constituted the abetment.

Clause 52 of the Bill seeks to provide that if the act for which the abettor is liable under section 51 is committed in addition to the act abetted, and constitute a distinct offence, the abettor is liable to punishment for each of the offences.

Clause 53 of the Bill seeks to provide that liability of abettor for an effect caused by the act abetted different from that intended by the abettor.

Clause 54 of the Bill seeks to provide that whenever any person, who is absent would be liable to be punished as an abettor, is present when the act or offence for which he would be punishable in consequence of the abetment is committed, he shall be deemed to have committed such act or offence.

Clause 55 of the Bill seeks to provide that when no express provision is made under this Sanhita for the punishment of abetment relating to an offence punishable with death or imprisonment for life, the person shall be punished with imprisonment which may extend to seven years, and also liable to fine.

Clause 56 of the Bill seeks to provide that if the offence abetment is not committed and no express provision is made for punishment, is shall be punished for imprisonment provided for that purpose for a term which may extend so one fourth part of the longest term provided that for that offence or with fine provided for that offence.

Clause 57 of the Bill seeks to provide that whoever abets the commission of an offence by the public generally or by any number or class of persons exceeding ten, shall be punished with imprisonment of either description for a term which may extend to seven years and with fine.

Clause 58 of the Bill seeks to provide that concealing design to commit offence punishable with death or imprisonment for life.

Clause 59 of the Bill seeks to provide for punishment to the public servant for concealing design of offence and thereby intending to facilitate such offence which it is his duty as such public servant to prevent the said offence.

Clause 60 of the Bill seeks to provide for punishment where a person intending to facilitate or knowing it to be likely that he will thereby facilitate the commission of an offence punishable with imprisonment, voluntarily conceals, by any act or illegal omission, the existence of a design to commit such offence, or makes any representation which he knows to be false respecting such design.

Clause 61 of the Bill seeks to provide that when two or more persons agree to do, or cause to be done an illegal act, or an act which is not illegal by illegal means, such an agreement is designated a criminal conspiracy.

Clause 62 of the Bill seeks to provide for punishment for attempting to commit offences, which is punishable with imprisonment for life or other imprisonment, for a term which may extend to one-half of the imprisonment for life or, as the case may be, one half of the longest term of imprisonment provided for that offence, or with such fine as is provided for the offence, or with both.

Clause 63 of the Bill seeks to provide for definition of rape and various circumstances under which the offence shall be treated as rape.

Clause 64 of the Bill seeks to provide for punishment for rape when committed by persons such as police officer, public servant, being a member of armed forces, staff of jail etc., which may extend to for a term which shall not be less than ten years but which may extend to imprisonment for life, which shall mean imprisonment for the remainder of that person's natural life, and shall also be liable to fine.

Clause 65 of the Bill seeks to provide for punishment for rape in certain cases such as woman under sixteen years of age.

Clause 66 of the Bill seeks to provide for punishment for rape, if in the course of commission of rape inflicts an injury which causes the death of the woman or causes the woman to be in a persistent vegetative state, with rigorous imprisonment for a term which shall not be less than twenty years, but which may extend to imprisonment for life, which shall mean imprisonment for the remainder of that person's natural life, or with death.

Clause 67 of the Bill seeks to provide for punishment of a person to two years which may extend to seven years and also liable for fine if such person commits sexual intercourse with his own wife during separation whether under a decree of separation or otherwise, without her consent.

Clause 68 of the Bill seeks to provide for punishment of rape, when committed by a person who is in a position of authority such as public servant, superintendent or manager of jail, staff under the management of hospital etc., for term which shall not less than five years but may extend to ten years and also with fine.

Clause 69 of the Bill seeks to provide that 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.

Clause 70 of the Bill seeks to provide for punishment for gang rape, by one or more persons, to 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 and also provide for punishment for imprisonment for life or with death when a gang rape is committed with a woman under eighteen years of age.

Clause 71 of the Bill seeks to provide for punishment for a repeat offender, previously convicted of an offence punishable under section 63 or section 64 or section 65 or section 66 or section 67 and is subsequently convicted for said sections, with imprisonment for life which shall mean imprisonment for the remainder of that person's natural life, or with death.

Clause 72 of the Bill seeks to provide for punishment to offender who prints or publishes, the name or any matter which may make known the identity of any person against whom an offence under section 63 or section 64 or section 65 or section 66 or section 67 or section 68 is alleged or found to have been committed (hereafter in this section referred to as the victim), with imprisonment of either description for a term which may extend to two years and shall also be liable to fine subject to certain conditions.

Clause 73 of the Bill seeks to provide for punishment for assaults or uses criminal force, to any woman, intending to outrage or knowing it to be likely that he will there by outrage her modesty, with imprisonment of either description for a term which shall not be less than one year but which may extend to five years, and shall also be liable to fine.

Clause 74 of the Bill seeks to provide punishment for sexual harassment, such as physical contact and advances involving unwelcome and explicit sexual overtures; or a demand or request for sexual favours; or showing pornography against the will of a woman;

with rigorous imprisonment for a term which may extend to three years, or with fine, or with both and for making sexually coloured remarks, with imprisonment of either description for a term which may extend to one year, or with fine, or with both.

Clause 75 of the Bill seeks to provide that whoever assaults or uses criminal force to any woman or abets such act with the intention of disrobing or compelling her to be naked, shall be punished with imprisonment of either description for a term which shall not be less than three years but which may extend to seven years, and shall also be liable to fine.

Clause 76 of the Bill seeks to provide for punishment for voyeurism, such as watching or capturing the image of a woman engaging in a private act in circumstances where she would usually have the expectation of not being observed either by the perpetrator or by any other person, at the behest of the perpetrator or disseminates such image and punishment thereof.

Clause 77 of the Bill seeks to provide for stalking such as follows a woman and contacts, or attempts to contact such woman to foster personal interaction repeatedly despite a clear indication of disinterest by such woman; etc., and punishment thereof.

Clause 78 of the Bill seeks to provide for punishment for intending to insult the modesty of any woman, utters any words, makes any sound or gesture, or exhibits any object in any form, intending that such word or sound shall be heard, or that such gesture or object shall be seen, by such woman, or intrudes upon the privacy of such woman, with simple imprisonment for a term which may extend to three years, and also with fine.

Clause 79 of the Bill seeks to provide punishment for dowry death, which shall be with imprisonment for a term which shall not be less than seven years but which may extend to imprisonment for life.

Clause 80 of the Bill seeks to provide punishment for cohabitation or sexual intercourse by a man deceitfully inducing a woman to belief of lawful marriage, with imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine.

Clause 81 of the Bill seeks to provide that whoever, having a husband or wife living, marries in any case in which such marriage is void by reason of its taking place during the life of such husband or wife, shall be punished with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine.

Clause 82 of the Bill seeks to provide that whoever, dishonestly or with a fraudulent intention, goes through the ceremony of being married, knowing that he is not thereby lawfully married, shall be punished with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine.

Clause 83 of the Bill seeks to provide that whoever takes or entices away any woman who is and whom he knows or has reason to believe to be the wife of any other man, with intent that she may have illicit intercourse with any person, or conceals or detains with that intent any such woman, shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both.

Clause 84 of the Bill seeks to provide that whoever, being the husband or the relative of the husband of a woman, subjects such woman to cruelty shall be punished with imprisonment for a term which may extend to three years and shall also be liable to fine.

Clause 85 of the Bill seeks to provide for punishment for kidnapping abducting or inducing woman to compel her marriage against her will for illicit intercourse, with an imprisonment for a term which may extend to ten years, and shall also be liable to fine.

Clause 86 of the Bill seeks to provide for punishment for causing voluntary miscarriage if not caused for good faith for the purpose of saving the life of the woman, with imprisonment for a term which may extend to three years, or with fine, or with both; and, if the woman be quick with child, shall be punished with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine.

Clause 87 of the Bill seeks to provide punishment for miscarriage without consent of woman, for a term which may extend to ten years and also for fine.

Clause 88 of the Bill seeks to provide that punishment whoever, with intent to cause the miscarriage of a woman with child, does any act which causes the death of such woman, shall be punished with imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine; and when done without the consent of woman with imprisonment for life or which may extend to ten years or with fine.

Clause 89 of the Bill seeks to provide that whoever before the birth of any child does any act with the intention of thereby preventing that child from being born alive or causing it to die after its birth, and does by such act prevent that child from being born alive, or causes it to die after its birth, shall, if such act be not caused in good faith for the purpose of saving the life of the mother, be punished with imprisonment of either description for a term which may extend to ten years, or with fine, or with both.

Clause 90 of the Bill seeks to provide that whoever does any act under such circumstances, that if he thereby caused death he would be guilty of culpable homicide, and does by such act cause the death of a quick unborn child, shall be punished with imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine.

Clause 91 of the Bill seeks to provide that whoever being the father or mother of a child under the age of twelve years, or having the care of such child, shall expose or leave such child in any place with the intention of wholly abandoning such child, shall be punished with imprisonment of either description for a term which may extend to seven years, or with fine, or with both.

Clause 92 of the Bill seeks to provide that whoever, by secretly burying or otherwise disposing of the dead body of a child whether such child die before or after or during its birth, intentionally conceals or endeavours to conceal the birth of such child, shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both

Clause 93 of the Bill seeks to provide that whoever hires, employs or engages any person below the age of eighteen years to commit an offence shall be punished with imprisonment of either description or fine provided for that offence as if the offence has been committed by such person himself.

Clause 94 of the Bill seeks to provide that whoever, by any means whatsoever, induces any child below the age of eighteen years to go from any place or to do any act with intent that such child below the age of eighteen years may be, or knowing that it is likely that such child will be, forced or seduced to illicit intercourse with another person shall be punishable with imprisonment which may extend to ten years, and shall also be liable to fine.

Clause 95 of the Bill seeks to provide that whoever kidnaps or abducts any child under the age of ten years with the intention of taking dishonestly any movable property from the person of such child, shall be punished with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine.

Clause 96 of the Bill seeks to provide that whoever sells, lets to hire, or otherwise disposes of child below eighteen years of age with intent that such child shall at any age be employed or used for the purpose of prostitution or illicit intercourse with any person or for any unlawful and immoral purpose, or knowing it to be likely that such person will at any age be employed or used for any such purpose, shall be punished with imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine.

Clause 97 of the Bill seeks to provide that whoever buys, hires or otherwise obtains possession of any child below the age of eighteen years with intent that such person shall at any age be employed or used for the purpose of prostitution or illicit intercourse with any person or for any unlawful and immoral purpose, or knowing it to be likely that such child will

at any age be employed or used for any such purpose, shall be punished with imprisonment of either description for a term which shall not be less than seven years but which may extend to fourteen years, and shall also be liable to fine.

Clause 98 of the Bill seeks to provide that whoever causes death by doing an act with the intention of causing death, or with the intention of causing such bodily injury as is likely to cause death, or with the knowledge that he is likely by such act to cause death, commits the offence of culpable homicide.

Clause 99 of the Bill seeks to provide various circumstances under which the culpable homicide is murder.

Clause 100 of the Bill seeks to define culpable homicide by causing death of person other than person whose death was intended.

Clause 101 of the Bill seeks to provide punishment for murder which shall be death or imprisonment for life, and also fine. Sub-Clause (2) further provides that when a murder is committed by a group of five or more persons acting in concert 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.

Clause 102 of the Bill seeks to provide that whoever, being under sentence of imprisonment for life, commits murder, shall be punished with death or with imprisonment for life, which shall mean the remainder of that person's natural life.

Clause 103 of the Bill seeks to provide the punishment for culpable homicide not amounting to murder.

Clause 104 of the Bill seeks to provide that whoever causes the death of any person by doing any rash or negligent act not amounting to culpable homicide, shall be punished with imprisonment of either description for a term which may extend to seven years and shall also be liable to fine. It further provides that whoever causes death of any person by doing any rash or negligent act not amounting to culpable homicide and escapes from the scene of incident or fails to report the incident to a Police officer or Magistrate soon after the incident, shall be punished with imprisonment of either description of a term which may extend to ten years and shall also be liable to fine.

Clause 105 of the Bill seeks to provide that if any person under eighteen years of age, with mental illness, any delirious person or any person in a state of intoxication, commits suicide, whoever abets the commission of such suicide, shall be punished with death or imprisonment for life, or imprisonment for a term not exceeding ten years, and shall also be liable to fine.

Clause 106 of the Bill seeks to provide that if any person commits suicide, whoever abets the commission of such suicide, shall be punished with imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine.

Clause 107 of the Bill seeks to provide punishment for attempt to murder and if by that death is caused, he would be guilty of murder and shall be punished with imprisonment which may extend to ten years and also for fine and further provides that if hurt is caused by such act the punishment shall be imprisonment for life, or with fine, or with both.

Clause 108 of the Bill seeks to define attempt to commit culpable homicide not amounting to murder and provides for punishment which may extend to three years, or with fine, or with both; and, if hurt is caused to any person by such act, shall be punished with imprisonment of either description for a term which may extend to seven years, or with fine, or with both.

Clause 109 of the Bill seeks to define organised crime to mean that continuing unlawful activity including kidnapping, robbery, vehicle theft, extortion, land grabbing, contract killing,

economic offences, cyber-crimes having severe consequences, trafficking in people, drugs etc., and punishment thereof.

Clause 110 of the Bill seeks to define petty organised crime as any crime that causes general feelings of insecurity among citizens relating to theft of vehicle or theft from vehicle, domestic and business theft, trick theft, cargo crime, theft (attempt to theft, theft of personal property),etc., and punishment thereof.

Clause 111 of the Bill seeks to provide that a terrorist act shall mean using bombs, dynamite or other explosive substance to cause damage or loss due to damage or destruction of property or to cause extensive interference with, damage or destruction to critical infrastructure, etc., with the intention to threaten the unity, integrity and security of India, to intimidate the general public or a segment thereof, or to disturb public order.

Clause 112 of the Bill seeks to provide whoever causes bodily pain, disease or infirmity to any person is said to cause hurt.

Clause 113 of the Bill seeks to define voluntarily causing hurt and punishment thereof.

Clause 114 of the Bill seeks to provide that hurt namely, emasculation, permanent privation of the sight of either eye, permanent privation of the hearing of either ear privation of any member or joint, destruction or permanent impairing of the powers of any member or joint, permanent disfiguration of the head or face, fracture or dislocation of a bone or tooth, and any hurt which endangers life or which causes the sufferer to be during the space of fifteen days in severe bodily pain, or unable to follow his ordinary pursuits are grievous hurt.

Clause 115 of the Bill seeks to define voluntarily causing grievous hurt and punishment thereof.

Clause 116 of the Bill seeks to define voluntarily causing hurt or grievous hurt by dangerous weapons or means and punishment thereof.

Clause 117 of the Bill seeks to define voluntarily causing hurt or grievous hurt to extort property, or to constrain to an illegal to an act and punishment thereof.

Clause 118 of the Bill seeks to define voluntarily causing hurt or grievous hurt to extort confession, or to compel restoration of property and punishment thereof.

Clause 119 of the Bill seeks to define voluntarily causing hurt or grievous hurt to deter public servant from his duty and punishment thereof.

Clause 120 of the Bill seeks to define voluntarily causing hurt or grievous hurt on provocation and punishment thereof.

Clause 121 of the Bill seeks to define causing hurt by means of poison, etc., with intent to commit an offence and punishment thereof.

Clause 122 of the Bill seeks to define voluntarily causing grievous hurt by use of acid, etc., and punishment thereof.

Clause 123 of the Bill seeks to define act endangering life or personal safety of others and punishment thereof.

Clause 124 of the Bill seeks to define wrongful restraint and punishment thereof.

Clause 125 of the Bill seeks to define wrongful confinement and punishment thereof

Clause 126 of the Bill seeks to define force.

Clause 127 of the Bill seeks to define criminal force.

Clause 128 of the Bill seeks to define assault.

Clause 129 of the Bill seeks to provide punishment for assault or criminal force otherwise than on grave provocation.

Clause 130 of the Bill seeks to provide punishment for assault or criminal force to deter public servant from discharge of his duty.

Clause 131 of the Bill seeks to provide punishment for assault or criminal force with intent to dishonour person, otherwise than on grave provocation.

Clause 132 of the Bill seeks to provide punishment assault or criminal force in attempt to commit theft of property carried by a person.

Clause 133 of the Bill seeks to provide punishment assault or criminal force in attempt wrongfully to confine a person.

Clause 134 of the Bill seeks to provide punishment assault or criminal force on grave provocation.

Clause 135 of the Bill seeks to define kidnapping and punishment thereof.

Clause 136 of the Bill seeks to provide that whoever by force compels, or by any deceitful means induces, any person to go from any place, is said to abduct that person.

Clause 137 of the Bill seeks to define kidnapping or maiming a child for purposes of begging and punishment thereof.

Clause 138 of the Bill seeks to provide for kidnapping or abducting in order to murder or for ransom, etc., and punishment thereof.

Clause 139 of the Bill seeks to provide for importation of girl or boy from foreign country and punishment thereof.

Clause 140 of the Bill seeks to provide for wrongfully concealing or keeping in confinement, kidnapped or abducted person punishment thereof.

Clause 141 of the Bill seeks to provide for trafficking of person and punishment thereof.

Clause 142 of the Bill seeks to provide for exploitation of a trafficked person and punishment thereof.

Clause 143 of the Bill seeks to provide for habitual dealing in slaves and punishment thereof.

Clause 144 of the Bill seeks to provide for unlawful compulsory labour and punishment thereof.

Clause 145 of the Bill seeks to provide for waging, or attempting to wage war, or abetting waging of war, against the Government of India and punishment thereof.

Clause 146 of the Bill seeks to provide for conspiracy to commit offences punishable by section 145 and punishment thereof.

Clause 147 of the Bill seeks to provide for collecting arms, etc., with intention of waging war against the Government of India and punishment thereof.

Clause 148 of the Bill seeks to provide for concealing with intent to facilitate design to wage war and punishment thereof.

Clause 149 of the Bill seeks to provide for assaulting President, Governor, etc., with intent to compel or restrain the exercise of any lawful power and punishment thereof.

Clause 150 of the Bill seeks to provide for acts endangering sovereignty unity and integrity of India and punishment thereof.

Clause 151 of the Bill seeks to provide for waging war against Government of any foreign State at peace with the Government of India and punishment thereof.

Clause 152 of the Bill seeks to provide for committing depredation on territories of foreign State at peace with the Government of India and punishment thereof.

Clause 153 of the Bill seeks to provide for receiving property taken by war or depredation mentioned in sections 151 and 152 and punishment thereof.

Clause 154 of the Bill seeks to provide for public servant voluntarily allowing prisoner of state or war to escape and punishment thereof.

Clause 155 of the Bill seeks to provide for public servant negligently suffering such prisoner to escape and punishment thereof.

Clause 156 of the Bill seeks to provide for aiding escape of, rescuing or harbouring such prisoner and punishment thereof.

Clause 157 of the Bill seeks to provide for abetting mutiny, or attempting to seduce a soldier, sailor or airman from his duty and punishment thereof.

Clause 158 of the Bill seeks to provide for abetment of mutiny, if mutiny is committed in consequence thereof and punishment thereof.

Clause 159 of the Bill seeks to provide for abetment of assault by soldier, sailor or airman on his superior officer, when in execution of his office and punishment thereof.

Clause 160 of the Bill seeks to provide for abetment of such assault, if the assault committed and punishment thereof.

Clause 161 of the Bill seeks to provide for abetment of desertion of soldier, sailor or airman and punishment thereof.

Clause 162 of the Bill seeks to provide for harbouring deserter and punishment thereof.

Clause 163 of the Bill seeks to provide for deserter concealed on board merchant vessel through negligence of master and punishment thereof.

Clause 164 of the Bill seeks to provide for abetment of act of insubordination by soldier, sailor or airman and punishment thereof.

Clause 165 of the Bill seeks to provide that no person subject to the Army Act, 1950, the Indian Navy (Discipline) Act, 1934, the Air Force Act, 1950, shall be subject to punishment under the Bill for any of the offences defined under Chapter VIII.

Clause 166 of the Bill seeks to provide for wearing garb or carrying token used by soldier, sailor or airman and punishment thereof.

Clause 167 of the Bill seeks to define "candidate" and "electoral right".

Clause 168 of the Bill seeks to provide for bribery.

Clause 169 of the Bill seeks to provide for undue influence at elections.

Clause 170 of the Bill seeks to provide for personation at elections.

Clause 171 of the Bill seeks to provide punishment for bribery.

Clause 172 of the Bill seeks to provide punishment for undue influence or personation at an election.

Clause 173 of the Bill seeks to provide for false statement in connection with an election and punishment thereof.

Clause 174 of the Bill seeks to provide for illegal payments in connection with an election and punishment thereof.

Clause 175 of the Bill seeks to provide for failure to keep election account and punishment thereof.

Clause 176 of the Bill seeks to provide for counterfeiting coin, government stamps, currency-notes or bank-notes and punishment thereof.

Clause 177 of the Bill seeks to provide for using as genuine, forged or counterfeit coin, Government stamp, currency-notes or bank-notes and punishment thereof.

Clause 178 of the Bill seeks to provide for possession of forged or counterfeit coin, Government stamp, currency-notes or bank-notes and punishment thereof.

Clause 179 of the Bill seeks to provide for making or possessing instruments or materials for forging or counterfeiting coin, Government stamp, currency notes or bank-notes and punishment thereof.

Clause 180 of the Bill seeks to provide for making or using documents resembling currency-notes or bank-notes and punishment thereof.

Clause 181 of the Bill seeks to provide for effacing writing from substance bearing Government stamp, or removing from document a stamp used for it, with intent to cause loss to Government and punishment thereof.

Clause 182 of the Bill seeks to provide for using Government stamp known to have been before used and punishment thereof.

Clause 183 of the Bill seeks to provide for erasure of mark denoting that stamp has been used and punishment thereof.

Clause 184 of the Bill seeks to provide for prohibition of fictitious stamps and punishment thereof.

Clause 185 of the Bill seeks to provide for person employed in mint causing coin to be of different weight or composition from that fixed by law and punishment thereof.

Clause 186 of the Bill seeks to provide for unlawfully taking coining instrument from mint and punishment thereof.

Clause 187 of the Bill seeks to provide for unlawful assembly and punishment thereof.

Clause 188 of the Bill seeks to provide for every member of unlawful assembly guilty of offence committed in prosecution of common object.

Clause 189 of the Bill seeks to provide for rioting and punishment thereof.

Clause 190 of the Bill seeks to provide for want only giving provocation with intent to cause riot- if rioting be committed; if not committed and punishment thereof.

Clause 191 of the Bill seeks to provide for liability of owner, occupier, etc., of land on which an unlawful assembly or riot takes place and punishment thereof.

Clause 192 of the Bill seeks to provide for affray and punishment thereof.

Clause 193 of the Bill seeks to provide for assaulting or obstructing public servant when suppressing riot, etc., and punishment thereof.

Clause 194 of the Bill seeks to provide for promoting enmity between different groups on ground of religion, race, place of birth, residence, language, etc., and doing acts prejudicial to maintenance of harmony and punishment thereof.

Clause 195 of the Bill seeks to provide for imputations, assertions prejudicial to national integration and punishment thereof.

Clause 196 of the Bill seeks to provide for public servant disobeying law, with intent to cause injury to any person and punishment thereof.

Clause 197 of the Bill seeks to provide for public servant disobeying direction under law and punishment thereof.

Clause 198 of the Bill seeks to provide for punishment for non-treatment of victim and punishment thereof.

Clause 199 of the Bill seeks to provide for public servant framing an incorrect document with intent to cause injury and punishment thereof.

Clause 200 of the Bill seeks to provide for public servant unlawfully engaging in trade and punishment thereof.

Clause 201 of the Bill seeks to provide for public servant unlawfully buying or bidding for property and punishment thereof.

Clause 202 of the Bill seeks to provide for personating a public servant and punishment thereof.

Clause 203 of the Bill seeks to provide for wearing garb or carrying token used by public servant with fraudulent intent and punishment thereof.

Clause 204 of the Bill seeks to provide for absconding to avoid service of summons or other proceeding and punishment thereof.

Clause 205 of the Bill seeks to provide for preventing service of summons or other proceeding, or preventing publication thereof and punishment thereof

Clause 206 of the Bill seeks to provide for non-attendance in obedience to an order from public servant and punishment thereof.

Clause 207 of the Bill seeks to provide for non-appearance in response to a proclamation under section 84 of the Bharatiya Nagarik Suraksha Sanhita, 2023 and punishment thereof.

Clause 208 of the Bill seeks to provide for omission to produce document to public servant by person legally bound to produce it and punishment thereof.

Clause 209 of the Bill seeks to provide for omission to give notice or information to public servant by person legally bound to give it and punishment thereof.

Clause 210 of the Bill seeks to provide for furnishing false information and punishment thereof.

Clause 211 of the Bill seeks to provide for refusing oath or affirmation when duly required by public servant to make it and punishment thereof.

Clause 212 of the Bill seeks to provide for refusing to answer public servant authorised to question and punishment thereof.

Clause 213 of the Bill seeks to provide for refusing to sign statement and punishment thereof.

Clause 214 of the Bill seeks to provide for false statement on oath or affirmation to public servant or person authorised to administer an oath or affirmation and punishment thereof.

Clause 215 of the Bill seeks to provide for false information, with intent to cause public servant to use his lawful power to the injury of another person and punishment thereof.

Clause 216 of the Bill seeks to provide for resistance to the taking of property by the lawful authority of a public servant and punishment thereof.

Clause 217 of the Bill seeks to provide for obstructing sale of property offered for sale by authority of public servant and punishment thereof.

Clause 218 of the Bill seeks to provide for illegal purchase or bid for property offered for sale by authority of public servant and punishment thereof.

Clause 219 of the Bill seeks to provide for obstructing public servant in discharge of public functions and punishment thereof.

Clause 220 of the Bill seeks to provide for omission to assist public servant when bound by law to give assistance and punishment thereof.

Clause 221 of the Bill seeks to provide for disobedience to order duly promulgated by public servant and punishment thereof.

Clause 222 of the Bill seeks to provide for threat of injury to public servant and punishment thereof.

Clause 223 of the Bill seeks to provide for threat of injury to induce person to refrain from applying for protection to public servant and punishment thereof.

Clause 224 of the Bill seeks to provide for attempt to commit suicide to compel or restraint exercise of lawful power and punishment thereof.

Clause 225 of the Bill seeks to provide for giving false evidence.

Clause 226 of the Bill seeks to provide for fabricating false evidence.

Clause 227 of the Bill seeks to provide for punishment for false evidence.

Clause 228 of the Bill seeks to provide for giving or fabricating false evidence with intent to procure conviction of capital offence and punishment thereof.

Clause 229 of the Bill seeks to provide for giving or fabricating false evidence with intent to procure conviction of offence punishable with imprisonment for life or imprisonment and punishment thereof.

Clause 230 of the Bill seeks to provide for threatening any person to give false evidence and punishment thereof.

Clause 231 of the Bill seeks to provide for using evidence known to be false and punishment thereof.

Clause 232 of the Bill seeks to provide for issuing or signing false certificate and punishment thereof.

Clause 233 of the Bill seeks to provide for using as true a certificate known to be false and punishment thereof.

Clause 234 of the Bill seeks to provide for false statement made in declaration which is by law receivable as evidence and punishment thereof.

Clause 235 of the Bill seeks to provide for using as true such declaration knowing it to be false and punishment thereof.

Clause 236 of the Bill seeks to provide for causing disappearance of evidence of offence, or giving false information to screen offender and punishment thereof.

Clause 237 of the Bill seeks to provide for intentional omission to give information of offence by person bound to inform and punishment thereof.

Clause 238 of the Bill seeks to provide for giving false information respecting an offence committed and punishment thereof.

Clause 239 of the Bill seeks to provide for destruction of document to prevent its production as evidence and punishment thereof.

Clause 240 of the Bill seeks to provide for false personation for purpose of act or proceeding in suit or prosecution and punishment thereof.

Clause 241 of the Bill seeks to provide for fraudulent removal or concealment of property to prevent its seizure as forfeited or in execution and punishment thereof.

Clause 242 of the Bill seeks to provide for fraudulent claim to property to prevent its seizure as forfeited or in execution and punishment thereof.

Clause 243 of the Bill seeks to provide for fraudulently suffering decree for sum not due and punishment thereof.

Clause 244 of the Bill seeks to provide for dishonestly making false claim in Court and punishment thereof.

Clause 245 of the Bill seeks to provide for fraudulently obtaining decree for sum not due and punishment thereof.

Clause 246 of the Bill seeks to provide for false charge of offence made with intent to injure and punishment thereof.

Clause 247 of the Bill seeks to provide for harbouring offender and punishment thereof.

Clause 248 of the Bill seeks to provide for taking gift, etc., to screen an offender from punishment and punishment thereof.

Clause 249 of the Bill seeks to provide for offering gift or restoration of property in consideration of screening offender and punishment thereof.

Clause 250 of the Bill seeks to provide for taking gift to help to recover stolen property, etc., and punishment thereof.

Clause 251 of the Bill seeks to provide for harbouring offender who has escaped from custody or whose apprehension has been ordered and punishment thereof.

Clause 252 of the Bill seeks to provide for penalty for harbouring robbers or dacoits and punishment thereof.

Clause 253 of the Bill seeks to provide for public servant disobeying direction of law with intent to save person from punishment or property from forfeiture and punishment thereof.

Clause 254 of the Bill seeks to provide for public servant framing incorrect record or writing with intent to save person from punishment or property from forfeiture and punishment thereof.

Clause 255 of the Bill seeks to provide for public servant in judicial proceeding corruptly making report, etc., contrary to law and punishment thereof.

Clause 256 of the Bill seeks to provide for commitment for trial or confinement by person having authority who knows that he is acting contrary to law and punishment thereof.

Clause 257 of the Bill seeks to provide for intentional omission to apprehend on the part of public servant bound to apprehend and punishment thereof.

Clause 258 of the Bill seeks to provide for intentional omission to apprehend on the part of public servant bound to apprehend person under sentence or lawfully committed and punishment thereof.

Clause 259 of the Bill seeks to provide for escape from confinement or custody negligently suffered by public servant and punishment thereof.

Clause 260 of the Bill seeks to provide for resistance or obstruction by a person to his lawful apprehension and punishment thereof.

Clause 261 of the Bill seeks to provide for resistance or obstruction to lawful apprehension of another person and punishment thereof.

Clause 262 of the Bill seeks to provide for omission to apprehend, or sufferance of escape, on part of public servant, in cases not otherwise, provided for and punishment thereof.

Clause 263 of the Bill seeks to provide for resistance or obstruction to lawful apprehension or escape or rescue in cases not otherwise provided for and punishment thereof.

Clause 264 of the Bill seeks to provide for violation of condition of remission of punishment and punishment thereof.

Clause 265 of the Bill seeks to provide for intentional insult or interruption to public servant sitting in judicial proceeding and punishment thereof.

Clause 266 of the Bill seeks to provide for personation of an assessor and punishment thereof.

Clause 267 of the Bill seeks to provide for failure by person released on bail or bond to appear in court and punishment thereof.

Clause 268 of the Bill seeks to provide for public nuisance.

Clause 269 of the Bill seeks to provide for negligent act likely to spread infection of disease dangerous to life and punishment thereof.

Clause 270 of the Bill seeks to provide for malignant act likely to spread infection of disease dangerous to life and punishment thereof.

Clause 271 of the Bill seeks to provide for disobedience to quarantine rule and punishment thereof.

Clause 272 of the Bill seeks to provide for adulteration of food or drink intended for sale and punishment thereof.

Clause 273 of the Bill seeks to provide for sale of noxious food or drink and punishment thereof.

Clause 274 of the Bill seeks to provide for adulteration of drugs and punishment thereof.

Clause 275 of the Bill seeks to provide for sale of adulterated drugs and punishment thereof.

Clause 276 of the Bill seeks to provide for sale of drug as a different drug or preparation and punishment thereof.

Clause 277 of the Bill seeks to provide for fouling water of public spring or reservoir and punishment thereof.

Clause 278 of the Bill seeks to provide for making atmosphere noxious to health and punishment thereof.

Clause 279 of the Bill seeks to provide for rash driving or riding on a public way and punishment thereof.

Clause 280 of the Bill seeks to provide for rash navigation of vessel and punishment thereof.

Clause 281 of the Bill seeks to provide for exhibition of false light, mark or buoy and punishment thereof.

Clause 282 of the Bill seeks to provide for conveying person by water for hire in unsafe or overloaded vessel and punishment thereof.

Clause 283 of the Bill seeks to provide for danger or obstruction in public way or line of navigation and punishment thereof.

Clause 284 of the Bill seeks to provide for negligent conduct with respect to poisonous substance and punishment thereof.

Clause 285 of the Bill seeks to provide for negligent conduct with respect to fire or combustible matter and punishment thereof.

Clause 286 of the Bill seeks to provide for negligent conduct with respect to explosive substance and punishment thereof.

Clause 287 of the Bill seeks to provide for negligent conduct with respect to machinery and punishment thereof.

Clause 288 of the Bill seeks to provide for negligent conduct with respect to pulling down, repairing or constructing buildings, etc., and punishment thereof.

Clause 289 of the Bill seeks to provide for negligent conduct with respect to animal and punishment thereof.

Clause 290 of the Bill seeks to provide punishment for public nuisance in cases not otherwise provided for.

Clause 291 of the Bill seeks to provide for continuance of nuisance after injunction to discontinue and punishment thereof.

Clause 292 of the Bill seeks to provide for sale, etc., of obscene books, etc., and punishment thereof.

Clause 293 of the Bill seeks to provide for sale, etc., of obscene objects to child and punishment thereof.

Clause 294 of the Bill seeks to provide for obscene acts and songs and punishment thereof.

Clause 295 of the Bill seeks to provide for keeping lottery office and punishment thereof.

Clause 296 of the Bill seeks to provide for injuring or defiling place of worship, with intent to insult the religion of any class and punishment thereof.

Clause 297 of the Bill seeks to provide for deliberate and malicious acts, intended to outrage religious feelings of any class by insulting its religion or religious beliefs and punishment thereof.

Clause 298 of the Bill seeks to provide for disturbing religious assembly and punishment thereof.

Clause 299 of the Bill seeks to provide for trespassing on burial places, etc., and punishment thereof.

Clause 300 of the Bill seeks to provide for uttering words, etc., with deliberate intent to wound religious feelings and punishment thereof.

Clause 301 of the Bill seeks to define the offence theft and punishment thereof.

Clause 302 of the Bill seeks to define the offence snatching and punishment thereof.

Clause 303 of the Bill seeks to provide for theft in a dwelling house, or means of transportation or place of worship, etc., and punishment thereof.

Clause 304 of the Bill seeks to provide for theft by clerk or servant of property in possession of master and punishment thereof.

Clause 305 of the Bill seeks to provide for theft after preparation made for causing death, hurt or restraint in order to the committing of theft and punishment thereof.

Clause 306 of the Bill seeks to define the offence extortion and punishment thereof.

Clause 307 of the Bill seeks to define the offence robbery and punishment thereof.

Clause 308 of the Bill seeks to define the offence dacoity and punishment thereof.

Clause 309 of the Bill seeks to provide for robbery, or dacoity, with attempt to cause death or grievous hurt and punishment thereof.

Clause 310 of the Bill seeks to provide for attempt to commit robbery or dacoity when armed with deadly weapon and punishment thereof.

Clause 311 of the Bill seeks to provide for punishment for belonging to gang of robbers, dacoits, etc.

Clause 312 of the Bill seeks to provide for dishonest misappropriation of property and punishment thereof.

Clause 313 of the Bill seeks to provide for dishonest misappropriation of property possessed by deceased person at the time of his death and punishment thereof.

Clause 314 of the Bill seeks to provide for criminal breach of trust under various circumstances and punishment thereof.

Clause 315 of the Bill seeks to define stolen property and punishment thereof if received under various circumstances.

Clause 316 of the Bill seeks to define cheating and punishment thereof.

Clause 317 of the Bill seeks to define cheating by personation and punishment thereof.

Clause 318 of the Bill seeks to provide for dishonest or fraudulent removal or concealment of property to prevent distribution among creditors and punishment thereof.

Clause 319 of the Bill seeks to provide for dishonestly or fraudulently preventing debt being available for creditors and punishment thereof.

Clause 320 of the Bill seeks to provide for dishonest or fraudulent execution of deed of transfer containing false statement of consideration and punishment thereof.

Clause 321 of the Bill seeks to provide for dishonest or fraudulent removal or concealment of property and punishment thereof.

Clause 322 of the Bill seeks to define mischief and punishment thereof.

Clause 323 of the Bill seeks to provide for mischief by killing or maiming animal and punishment thereof.

Clause 324 of the Bill seeks to provide for mischief by injury, inundation, fire or explosive substance, etc., and punishment thereof.

Clause 325 of the Bill seeks to provide for mischief with intent to destroy or make unsafe a rail, aircraft, decked vessel or one of twenty tons burden and punishment thereof.

Clause 326 of the Bill seeks to provide for punishment for intentionally running vessel aground or ashore with intent to commit theft, etc. and punishment thereof.

Clause 327 of the Bill seeks to provide for criminal trespass and house-trespass and punishment thereof.

Clause 328 of the Bill seeks to provide for house-trespass and house-breaking.

Clause 329 of the Bill seeks to provide for punishment for house-trespass or house breaking and punishment thereof.

Clause 330 of the Bill seeks to provide for house-trespass in order to commit offence and punishment thereof.

Clause 331 of the Bill seeks to provide for house-trespass after preparation for hurt, assault or wrongful restraint and punishment thereof.

Clause 332 of the Bill seeks to define dishonestly breaking open receptacle containing property.

Clause 333 of the Bill seeks to define making a false document.

Clause 334 of the Bill seeks to provide for forgery and punishment thereof.

Clause 335 of the Bill seeks to provide for forgery of record of Court or of public register, etc. and punishment thereof.

Clause 336 of the Bill seeks to provide for forgery of valuable security, will, etc., and punishment thereof.

Clause 337 of the Bill seeks to provide for having possession of document specified in section 335 or 336, knowing it to be forged and intending to use it as genuine and punishment thereof.

Clause 338 of the Bill seeks to provide for forged document or electronic record and using it as genuine and punishment thereof.

Clause 339 of the Bill seeks to provide for making or possessing counterfeit seal, etc., with intent to commit forgery punishable under section 336 and punishment thereof.

Clause 340 of the Bill seeks to provide for counterfeiting device or mark used for authenticating documents described in section 336, or possessing counterfeit marked material and punishment thereof.

Clause 341 of the Bill seeks to provide for fraudulent cancellation, destruction, etc., of will, authority to adopt, or valuable security and punishment thereof.

Clause 342 of the Bill seeks to provide for falsification of accounts and punishment thereof.

Clause 343 of the Bill seeks to provide for property mark and punishment thereof.

Clause 344 of the Bill seeks to provide for tampering with property mark with intent to cause injury and punishment thereof.

Clause 345 of the Bill seeks to provide for counterfeiting a property mark and punishment thereof.

Clause 346 of the Bill seeks to provide for making or possession of any instrument for counterfeiting a property mark and punishment thereof.

Clause 347 of the Bill seeks to provide for selling goods marked with a counterfeit property mark and punishment thereof.

Clause 348 of the Bill seeks to provide for making a false mark upon any receptacle containing goods and punishment thereof.

Clause 349 of the Bill seeks to provide for criminal intimidation and punishment thereof.

Clause 350 of the Bill seeks to provide for intentional insult with intent to provoke breach of peace and punishment thereof.

Clause 351 of the Bill seeks to provide for statements conducing to public mischief and punishment thereof.

Clause 352 of the Bill seeks to provide for act caused by inducing person to believe that he will be rendered an object of the divine displeasure and punishment thereof.

Clause 353 of the Bill seeks to provide for misconduct in public by a drunken person and punishment thereof.

Clause 354 of the Bill seeks to define defamation and punishment thereof.

Clause 355 of the Bill seeks to provide for breach of contract to attend on and supply wants of helpless person and punishment thereof.

Clause 356 of the Bill seeks to provide for repeal and savings of the Indian Penal Code, 1860.

FINANCIAL MEMORANDUM

The Bharatiya Nyaya Sanhita, 2023, if enacted, is not likely to involve any expenditure, either recurring or non-recurring, from and out of the Consolidated Fund of India.

LOK SABHA

A
BILL

to consolidate and amend the provisions relating to offences and for matters connected therewith or incidental thereto.

(Shri Amit Shah, Minister of Home Affairs and Cooperation)

MGIPMRND—278LS—10.08.2023.

List of Domain Experts

1.	Shri Praveen Sinha, Ex-Special Director, Central Bureau of Investigation (CBI)
2.	Dr. Padmini Singh, Joint Secretary, Department of Legal Affairs
3.	Smt. Anupama Nilekar Chandra, Additional Director General (ADG), Bureau of Police Research & Development (BPR&D)
4.	Dr. Vikram Singh, Former Director General of Police (DGP)
5.	Prof. Naveen Chaudhary, National Forensic Sciences University, Gandhinagar, Gujarat
6.	Ms. Sonia Mathur, Senior Advocate
7.	Shri Jagdish Rana, Advocate
8.	Shri Anand Dey, Advocate
9.	Dr. Pinky Anand, Senior Advocate and Former Additional Solicitor General of India
10.	Justice Ritu Raj Awasthi, Chairman, Law Commission of India
11.	Dr. Adish C. Aggarwala, Senior Advocate, President, Supreme Court Bar Association
12.	Justice (Retd.) Satish Chandra
13.	Shri Utkarsh Sharma, Advocate
14.	Shri K.L. Janjani, Senior Advocate
15.	Shri Sanjeev Deshpande, Senior Advocate
16.	Prof. (Dr.) Faizan Mustafa, Former Vice-Chancellor, National Academy of Legal Studies and Research (NALSAR)
17.	Dr. Aditya Sondhi, Senior Advocate
18.	Shri Amit Desai, Senior Advocate
19.	Shri Priyank Kanoongo, Chairperson, National Commission for Protection of Child Rights (NCPCR)