

IJETRM

International Journal of Engineering Technology Research & Management

Published By:

<https://www.ijetrm.com/>

NEW CRIMINAL LAWS (BNS, BNSS, BSA) - AN ANALYSIS¹

B Mathanachandiran¹

Assistant Professor, VISTAS Chennai

Dr. Ratheesh Kumar.V.V²,

Associate Professor & HOD, VISTAS, Chennai.

INTRODUCTION:

These three new Criminal Laws would not only repeal the previous ones, but also make necessary adjustments to the punitive and procedural laws. These laws try to simplify the legal complications, Streamlining crime and penalty provisions. These laws aim to provide fast justice in line with constitutional and democratic principles, utilizing technology and forensic science for crime investigation. The Bharatiya Nagarik Suraksha Sanhita prescribes dates for inquiry, trial, and verdict. According to the Bharatiya Sakshya Adhiniyam, electronic evidence includes information provided by witnesses, accused, specialists, and victims. Electronic and digital evidence are legally valid and enforceable, just like any other document. Bharatiya Nyaya Sanhita legislation have been made gender-neutral to the greatest extent possible.

Keywords:

BNS, BNSS, BSA, Criminal laws, Procedure

NEED OF NEW CRIMINAL LAWS:

As the legislative environment changes, judges and stakeholders must understand the new laws and their implications for justice administration. This emphasizes the significant improvements in BNS that address the changing nature of crime in society. Offenses against women and children have been prioritized chronologically to highlight their importance in crime prevention. The general law now punishes organized crime, as well as new offences such as mob lynching, snatching, and terrorist acts, in addition to existing State legislation. This emphasizes the significant improvements in BNS that address the changing nature of crime in society. Offenses against women and children have been prioritized chronologically to highlight their importance in crime prevention. The general law now punishes organized crime, as well as new offences such as mob lynching, snatching, and terrorist acts, in addition to existing State legislation. The law of evidence has changed significantly, especially with the introduction of electronic evidence in BSA, which replaced IEA. Part III of the primer goes over these modifications. The Part Highlights Electronic evidence encompasses both primary and secondary evidence. It clarifies statutory amendments related to the admissibility and certification of electronic evidence.

HIGHLIGHTS OF BHARATIYA NYAYA SANHITA 2023:

- Simplifying legal complications by streamlining law for offenses and penalties.
- Community service for minor offenses has been implemented. Fines and penalties for numerous offenses have been increased accordingly.
- Offenses against women and children are prioritized chronologically.
- Some offenses have been gender neutralized.
- New offenses have been added, including terrorist acts, organized crime, minor organized crime, and crimes against the state, with deterrent penalties.

¹ The Author is B Mathanachandiran, Assistant Professor, VISTAS Chennai and The Co-Author is Dr.Ratheesh Kumar.V.V, Associate Professor & HOD, VISTAS,Chennai.

IJETRM

International Journal of Engineering Technology Research & Management

Published By:

<https://www.ijetrm.com/>

SALIENT FEATURES OF BHARATIYA NYAYA SANHITA 2023:

- Section 2(10) of the BNS now defines "gender" as "he" and its derivatives for any person, whether male, female, or transgender. This is a progressive move.
- Section 2(3) of the BNS defines "child"
- Section 2(21) BNS now defines "movable property" as "incorporeal property" in addition to "corporeal property."
- The terms "Queen", "British India", "Servant of Government", "India", and "Government of India" have been removed.
- Community service is described as court-ordered work that benefits the community but is not compensated. [Explanation for Section 23 of the Bharatiya Nagarik Suraksha Sanhita].
- In State through *PS Lodha Colony, New Delhi v. Sanjeev Nanda*² (BMW Hit-and-Run Case) The Supreme Court ordered community service and compensation as a reformatory measure under Article 142 of the Indian Constitution, rather than augmenting the punishment.
- Under section 18(c) of the Juvenile Justice (Care and Protection of Children) Act, 2015, a juvenile may be required to perform Community Service as a penalty.
- Section 48 of the BNS now includes a new offense that punishes anyone, including foreigners, who aids in the commission of an offense in India while outside of the country.
- The Sanhita has a distinct chapter (Chapter V) for offenses against women and children, which takes precedence over other severe offenses.
- The definition of rape under section 375 IPC is similar to section 63 BNS, with the exception of sexual intercourse between a man and his wife who is 18 years or older (Exception 2). *Independent Thought v. Union of India and another*.³
- Section 69 of the BNS penalizes sexual intercourse through deceptive means, such as false promises of employment or advancement, inducement, or marriage after suppressing identity. It also includes making a pledge to marry without intention of fulfilling. This offense overlaps with rape, which involves sexual intercourse without consent due to a misunderstanding of facts (section 63 r/w 28 BNS).
- Section 95 BNS criminalizes hiring, employing, or enlisting a child to commit an offense.
- Unnatural Offences [Section 377 IPC] have been removed. This deletion decriminalizes voluntary sexual actions, which were previously found unlawful in *Navej Singh Johar v. Union of India*.⁴ However, non-consensual sexual actions that are not considered rape under section 63 of the BNS are classified as lesser offenses (e.g., hurt, grave hurt).
- Adultery was found unconstitutional in *Joseph Shine v. Union of India*.⁵
- Mob-lynching is now a sub-category of the murder offense. Mob-lynching is a collective murder committed by five or more people based on factors such as race, caste, gender, place of birth, language, or personal beliefs. Section 103 of the BNS states that each member of such a gang is punished as if they committed murder. This introduction responds to the Supreme Court's directive to combat mob lynching in *Tehseen S. Poonawalla v. Union of India and others*.⁶
- The sanctions for causing death by negligence are categorized as follows: Under section 106(1) BNS, anyone other than a certified medical practitioner who causes death via negligence may face a 5-year prison sentence and a fine. Under section 106(1) BNS, a certified medical practitioner who causes death via carelessness may face imprisonment for up to two years and a fine. Under section 106(2) of the BNS, causing death by reckless

² (2012) 8 SCC 450

³ (2017) 10 SCC 800

⁴ (2018) 10 SCC 1

⁵ (2019) 3 SCC 39

⁶ (2018) 9 SCC 501

IJETRM

International Journal of Engineering Technology Research & Management

Published By:

<https://www.ijetrm.com/>

driving and fleeing without reporting the occurrence to a police officer or Magistrate can result in a 10-year prison sentence and a fine.

- The Sanhita has removed the attempt to commit suicide under Section 309 IPC, after the Supreme Court's ruling in *Aruna Ramachandra Shanbaug v. Union of India and Others*.⁷ Section 115 of the Mental Health Act of 2017. A new crime under section 226 of the BNS penalizes attempting suicide to compel or constrain official duty.
- Section 111 BNS criminalizes organized crime, which includes kidnapping, robbery, vehicle theft, extortion, land grabbing, contract killing, economic offenses, cybercrimes, and trafficking of people, drugs, weapons, or illicit goods or services by two or more individuals.
- Section 112 of the BNS punishes petty organized crime, which involves ongoing criminal activity such as theft, snatching, cheating, unauthorized ticket sales, betting or gambling, and selling of public examination question papers by two or more individuals.
- Section 113 of the BNS makes the Terrorist Act, which is similar to section 15 of the Unlawful Activities (Prevention) Act, 1967, punishable. The provision clarifies that the officer not below the level of Superintendent of Police will decide whether to record the case under this section or UAPA.
- Section 117(3)/(4) BNS now includes provisions for serious harm that causes lifelong impairment or a persistent vegetative state, as well as for mob lynching.
- Section 143 of the BNS defines beggary as a form of exploitation for trafficking.
- Sedition under Section 124A of the Indian Penal Code has been eliminated. Section 152 BNS now punishes secession, armed rebellion, subversive operations, and any act that threatens India's sovereignty, unity, and integrity.
- The publication of false or misleading material that threatens India's sovereignty, unity, integrity, or security is now a new offense under section 197(1)(d) BNS.
- Snatching (section 304 BNS) is a new form of theft in which property is suddenly or forcibly seized. This offense applies to theft that involves the use of criminal force but does not result in robbery.
- Sections 444 and 446 of the IPC have been removed for trespassing and breaking into houses at night.

NEW OFFENCES

- MOB LYNCHING
- TERRORIST ACTS
- ORGANISED CRIME
- PETTY ORGANISED CRIME
- SNATCHING
- HIRING, EMPLOYING OR ENGAGING A CHILD TO COMMIT AN OFFENCE
- SEXUAL INTERCOURSE BY EMPLOYING DECEITFUL MEANS
- ACT ENDANGERING SOVEREIGNTY, UNITY AND INTEGRITY OF INDIA
- ABETTING COMMISSION OF ANY OFFENCE IN INDIA WHILE BEING OUTSIDE INDIA

REPEALED OFFENCES

⁷ (2011) 4 SCC 454

IJETRM

International Journal of Engineering Technology Research & Management

Published By:

<https://www.ijetrm.com/>

- UNNATURAL OFFENCES
- ADULTERY
- ATTEMPT TO COMMIT SUICIDE
- SEDITION
- LURKING HOUSE TRESPASS BY NIGHT
- HOUSEBREAKING BY NIGHT

HIGHLIGHTS OF BHARATIYA NAGARIK SURAKSHYA SANHITA

- Ensuring timely justice in line with constitutional and democratic principles.
- The application of technology and forensic science to criminal investigations.
- Electronic communication is used for providing information, lodging documents, and serving summons.
- Establish dates for investigation, trial, and judgment.
- Provide a copy of the FIR to the victim and update them on the investigation's progress digitally.
- Victims must be given the opportunity to be heard before the government withdraws a case with a 7-year or longer sentence.
- Petty offenses are subject to a mandatory summary trial.
- The accused can be examined using audio, video, or electronic means, such as video conferencing.
- The criminal court hierarchy has also been streamlined.

SALIENT FEATURES OF BHARATIYA NAGARIK SURAKSHYA SANHITA:

The following words (not defined in Cr PC) have been defined in BNSS :

- Audio-video-electronic means – section 2(1)(a)
- Bail – section 2(1)(b)
- Bail bond – section 2(1)(c)
- Bond – section 2(1)(e)
- Electronic communication – section 2(1)(i)

Constitution of Criminal Court and Offices

The posts of Metropolitan Magistrate and Assistant Sessions Judge were removed from the Courts class. Section 15 BNSS allows the State Government to designate any police officer with the rank of Superintendent of Police or equivalent as a Special Executive Magistrate, in addition to an Executive Magistrate.

Power of Courts

Section 23 of the BNSS allows Magistrates of the First Class to impose fines ranging from 10,000 to 50,000 and Magistrate of the Second Class from 5,000 to 10,000. Magistrates can use community service as a punishment. Community service refers to court-ordered work that benefits the community but is unpaid. [Explanation for Section 23]. According to Section 25 BNSS, if multiple sentences are running concurrently in a trial, the maximum incarceration duration is 20 years (rather than 14 years under Section 31 CrPC).

Prosecution Authorities

According to Section 25 BNSS, if multiple sentences are running concurrently in a trial, the maximum duration of imprisonment is 20 years (rather than 14 years under Section 31 CrPC). Additionally, each district will establish a Directorate of Prosecution. The Directorate will be led by the Deputy Director of Prosecution and supported by Assistant Directors of Prosecution.

Powers and function of Authorities

Director of Prosecution shall be responsible for giving opinions on filing appeals and monitoring cases involving offences punishable with 10 years or more/life imprisonment/death. The Deputy Director of Prosecutions reviews police reports and monitors cases containing offences punishable by 7 to 10 years. The Assistant Director of Prosecution oversees cases containing offenses punishable by less than 7 years.

IJETRM

International Journal of Engineering Technology Research & Management

Published By:

<https://www.ijetrm.com/>

Arrest and Remand

Section 35(7) of the BNSS protects individuals over 60 and infirm from arrest for offenses punishable by less than 3 years. Arrests must be approved by the DSP in these instances. Section 35(7) of the BNSS protects individuals over 60 and infirm from arrest for offenses punishable by less than three years. Arrests must be approved by the DSP in these instances. Section 43(3) of the BNSS enables handcuffing for grave crimes and repeat/habitual offenders. Section 40 of the BNSS requires private arrestees to appear in front of the police within 6 hours. According to Section 190 of the BNSS, if an accused individual is not detained, the police officer must get security for their appearance before the Judicial Magistrate. The provision follows the Supreme Court's orders in *Siddharth v. State of Uttar Pradesh and others*.⁸ Reiterated in *Satender Kumar Antil v. Central Bureau of Investigation and others*.⁹ According to Section 187(2) of the BNSS, police custody can be sought for up to 15 days in a staggered manner within 40/60 days after detention. Section 187(3)(i) allows for a maximum 90-day detention period for offences punished by death or life imprisonment for a term of 10 years or more, rather than a term of less than 10 years. Under Section 51(3) of the BNSS, registered medical practitioners must promptly send examination reports to the investigating officer.

Process to compel Appearance

As per section 63 BNSS, summons bearing court seals/digital signature may be issued through electronic communication. Section 64 of the BNSS requires police stations to keep a registry of summons, including their address, phone number, and email address. Section 66 BNSS allows summons to be served on any adult member of the family, regardless of gender. Section 70 of the BNSS states that electronic summons service is deemed good service.

Procedure for Attachment and Forfeiture of Property

Section 111(c) of the BNSS allows Magistrates to attach and dispose of property classified as proceeds of crime, similar to the PMLA Act.

Maintenance/Security Proceedings

Section 145 BNSS allows parents to file cases where they reside. Section 144A CrPC for security proceedings has been removed.

First Information Report (FIR)

According to *Satvinder Kaur vs. State (Govt. of NCT of Delhi and others)*, Section 173(1) of the BNSS allows for the filing of zero FIRs.¹⁰ This provision permits lodging of information through electronic communication (e-FIR) provided the informant signs the records within 3 days. Section 173(2) of the BNSS grants victims the right to obtain a free copy of their FIRs. Section 173(4) of the BNSS allows for an application to the Magistrate if a FIR remains unregistered notwithstanding the Superintendent of Police's assistance.

Investigation

The scope of section 91 CrPC has been expanded. Section 94 of the BNSS allows a court/officer-in-charge of a police station to order the production of electronic communication, including devices that may hold digital evidence. Following the judgment in *Lalita Kumari v. Government of Uttar Pradesh and others*.¹¹ Section 173(3) BNSS recognizes 'preliminary enquiry' in cases punished by 3 years or more but less than 7 years. The preliminary inquiry has a 14-day deadline and must be approved by an officer with the level of DSP or higher. Registration of a FIR for these offenses requires clearance from the DSP. Section 105 of the BNSS requires video documentation of searches and seizures, as well as the creation of a signed seizure list by witnesses. The provision recognizes the Supreme Court's orders in *Shafiqi Mohammad v. State of Himachal Pradesh*.¹² reiterated in *Paramvir Singh Saini v. Baljit Singh and*

⁸ (2022) 1 SCC 676

⁹ (2022) 10 SCC 51

¹⁰ (1999) 8 SCC 728

¹¹ (2014) 2 SCC 1

¹² (2018) 5 SCC 311

IJETRM

International Journal of Engineering Technology Research & Management

Published By:

<https://www.ijetrm.com/>

others.¹³ According to Section 175(3) of the BNSS, a Magistrate can commission an investigation for a cognizable offence upon receiving an application and an affidavit (as directed in *Priyanka Srivastava v. State of Uttar Pradesh and others*).¹⁴ and upon consideration of report submitted by police. According to Section 174 of the BNSS, in cases of non-cognizable offenses, the police officer must not only refer the complainant to the Magistrate, but also forward the daily diary report to him. Section 175(1) BNSS allows the SP to depute a DSP to conduct investigations in serious situations, based on the nature and degree of the offence. Section 175(1) BNSS empowers the SP to appoint a DSP to conduct investigations in serious cases, depending on the nature and severity of the offense. According to Section 183(6)(a) of the BNSS, a witness's testimony recorded by a magistrate in an offense punishable by 10 years, life, or death can be treated as their examination in chief if they are temporarily or permanently mentally/physically incapacitated. Section 184 of the BNSS requires medical examination reports to be delivered to the investigating officer within 7 days. According to Section 193(3)(ii) of the BNSS, police officers must provide a progress report to victims/informants within 90 days, including via electronic means. Section 193(3)(i)(i) requires that the sequence of custody in the case of electronic be supplied to the Magistrate in the report. Section 193(9) of the BNSS allows for further investigation during trial only with judicial authority. Further inquiry must be completed within 90 days, or as extended by court order. Section 193(8) of the BNSS permits for electronic delivery of police reports and documentation to accused individuals. According to Section 349 BNSS, accused individuals can be asked to produce voice samples without being arrested.

Jurisdiction of the Criminal Courts in Inquiry and Trial

Section 202 of the BNSS states that the venue of trial for any offense, including cheating through electronic communication, must be the location where the communication was sent/received. According to Section 208 of the BNSS, if an offense is committed outside of India, the trial will take place where the accused is found or where the offense is filed in India.

Complaints to Magistrates

Section 193(8) BNSS allows for electronic delivery of papers to accused individuals. Section 230 of the BNSS requires the delivery to be made within 14 days following the accused's production or appearance. According to Section 232 of the BNSS, commitments must be made within 90 days of the Magistrate taking cognizance. According to Section 223 of the BNSS, the accused must be given the chance for a hearing when taking cognizance.

Conditions requisite for initiation of proceedings

Section 175(4) BNSS specifies that no cognizance shall be taken. If a public servant commits an offense while performing their official duties, the Magistrate will consider public feedback. The accused servant and his superior's report on the crime. According to Section 218 of the BNSS, if previous government sanction is to prosecute judges and public servants, the appropriate government must make a decision within 120 days of receiving the request for punishment. If the decision is not made within this timeframe, the sanction is deemed granted by the government.

Trial of Cases:

Sessions Cases

The discharge petition (section 250 BNSS) must be filed within 60 days after the commitment date. Charges must be framed within 60 days following the first hearing, according to Section 251 BNSS. The charge will be read to the accused by physical or audio-video methods. [clause 251(2) BNSS]. Section 254 of the BNSS allows for audio-video examination of witnesses.

Warrant Case

The discharge petition (section 262 BNSS) must be filed within 60 days of receiving the police report and other necessary documentation. Section 263 BNSS requires a 60-day charge framing timeline from the first hearing date. Sections 265 and 266 of the BNSS allow both prosecution and defense to interrogate witnesses using audio-video electronic methods at a designated location notified by the state government. According to section 269(7) of the BNSS,

¹³ (2021) 1 SCC 184

¹⁴ (2015) 6 SCC 287

IJETRM

International Journal of Engineering Technology Research & Management

Published By:

<https://www.ijetrm.com/>

if witnesses cannot be obtained for cross-examination in warrant proceedings other than police reports, the case will proceed based on the evidence on record. According to section 272 BNSS, the Magistrate must give the complainant 30 days to be present before dismissing the offender.

Summons Case

According to section 274 BNSS, a Magistrate can discharge an accused in a summons case if the accusation is unfounded. Section 277 of the BNSS allows for audio-video examination of witnesses.

Summary Trial

Section 283 BNSS mandates summary trial for petty and less serious offences enumerated therein.

General Provisions

Section 346 of the BNSS allows a party to request up to two adjournments due to circumstances beyond their control and the protest of the opposing party. This provision replaces the term 'Magistrate' in section 309 CrPC with 'Court'. The Sessions Court cannot remand the accused to detention for more than 15 days at a time. Section 84 of the BNSS states that an absconding accused charged with an offense punishable by 10 years or more will be declared a proclaimed offender. Section 356(1) BNSS provides trial may proceed against a proclaimed offender in absentia and judgment may be pronounced. This provision has been incorporated in view of directions in *Hussain and another vs Union of India*.¹⁵

Plea Bargaining

According to Section 290 BNSS, accused individuals can apply for plea bargaining within 30 days of the charge being filed. Within 60 days, the public prosecutor/complainant and the accused must reach a mutually suitable resolution. Section 293 BNSS allows courts to impose a sentence equal to one-fourth of the legal minimum for first-time offenders with no criminal history. Section 265E CrPC did not allow the court to exercise this discretion.

Evidence in Inquiries and Trials

Section 308 of the BNSS allows for audio-video examination of accused individuals. Section 316 of the BNSS requires signatures to be acquired within 72 hours. Section 330 BNSS requires a 30-day deadline to contest the authenticity of a document, which may be waived at the discretion of the court.

Reports of certain Government scientific experts

Section 329(g) of the BNSS allows the government to designate any scientific expert as a 'Government scientific expert', including private individuals.

Bail Provisions:

Delay in Trial

Section 479 of the BNSS allows bail for first-time offenders who have been detained for one-third of the maximum duration of imprisonment provided by law. In other circumstances, detention should be limited to half the maximum term. The Superintendent of Jail is responsible for submitting a written application to the Court for the release of a person on bail when one-half or one-third of their jail time is finished.

Bail shall not be denied in certain cases

Section 480 of the BNSS states that bail cannot be denied for non-bailable offenses if the accused is required to identify witnesses during investigation or if police custody is required for more than 15 days. The accused must also agree to comply with the court's directions.

Withdrawal of Prosecution

Section 360 of the BNSS requires victims to be given a hearing before any case is dismissed.

Witness Protection

Section 398 of the BNSS requires the State Government to notify a witness protection system. The clause translates directives from *Mahender Chawla v. Union of India and others*.¹⁶

Delivery of Judgment

¹⁵ (2017) 5 SCC 702

¹⁶(2019) 14 SCC 615

IJETRM

International Journal of Engineering Technology Research & Management

Published By:

<https://www.ijetrm.com/>

Summons Case

According to Section 258 of the BNSS, judgment in a summons matter must be delivered within 30 days, but can be extended up to 45 days for reasons recorded in writing, from the conclusion of the debate.

Other Criminal Trials

According to Section 392(1) of the BNSS, judgment in criminal trials must be pronounced within 45 days of the end of the trial. Proviso to section 392(4) BNSS requires judgment to be uploaded within 7 days. Section 392(5) allows accused individuals to appear in court via audio-video to hear their judgment.

Mercy petition

According to Section 472 BNSS, a mercy petition must be filed within 30 days before the Governor and 60 days before the President.

Miscellaneous Provision

Section 530 of the BNSS allows for electronic trials and proceedings.

HIGHLIGHTS OF BHARATIYA SAKSHYA ADHINIYAM

Establishes general norms and standards of evidence.

'Evidence' refers to any information provided electronically. This allows for electronic testimony from witnesses, accused, experts, and victims.

Electronic and digital records are considered documentary evidence and have the same legal effect, validity, and enforceability as regular documents.

Secondary evidence now includes mechanically made copies, counterparts of documents, and oral accounts of document contents that match the original record's hash value.

The Adhinyam limits admissible facts and ensures their certification in courts. It establishes clearer and more consistent procedures for courts to use evidence to address case facts and circumstances.

SALIENT FEATURES OF BHARATIYA SAKSHYA ADHINIYAM

Deletion of certain words and expressions

The dated expressions 'Parliament of the United Kingdom', 'Provincial Act', 'notification by the Crown Representative', 'London Gazette', 'any Dominion, colony or possession of his Majesty', 'Jury', 'Lahore', 'United Kingdom of Great Britain and Ireland', 'Commonwealth', 'Her Majesty or by the Privy Council', 'Her Majesty's Government', 'copies or extracts contained in the London Gazette, or purporting to be printed by the Queen's Printer', 'possession of the British Crown', 'Court of Justice in England', 'Her Majesty's Dominions', 'Barrister' have been deleted as they are no longer relevant.

The words 'Vakil', 'Pleader', 'Barrister' and 'Attorney' have been replaced with the word 'Advocate'.

Short title, application and commencement

The Act is made applicable to all Courts-martial proceedings. Previously, Courts-martial convened under the Army Act, the Naval Discipline Act or the Indian Navy (Discipline) Act, or the Air Force Act were excluded.

Definition

The definition of 'documents' under section 2(1)(d) BSA has been expanded to include electronic and digital records. Electronic record has been defined under section 2(1)(t) of Information Technology Act, 2000 (IT Act).

The definition of 'evidence' under section 2(1)(e) BSA has been expanded to include statements given electronically. This would permit the appearance of witnesses, accused, experts and victims to depose their evidence through electronic means. It also establishes 'digital records' as documentary evidence. Electronically provided information shall be treated on par with traditional in-person statements, considering the challenges of in-person presence.

IJETRM

International Journal of Engineering Technology Research & Management

Published By:

<https://www.ijetrm.com/>

Under section 2(2) BSA, all words and expressions not defined herein have been given the same meaning as defined under the IT Act, BNSS and BNS. The section is comprehensive and covers all words / expressions in these statutes instead of a few expressions defined in the IT Act.

Relevancy of Facts

Section 4 of the BSA applies the principle of res gestae to both the facts in question and pertinent facts, rather than only the facts in issue. According to section 24 of the IEA, confessions made under duress, threat, or promise are not considered valid. Section 22 BSA has inserted 'coercion' as a new ground, making confession irrelevant. Explanation added to section 24 BSA indicates that if a proclaimed criminal is tried in absentia (under section 356 BNSS) alongside other accused, their confession can be used against all, including the proclaimed offender. Section 31 of the BSA allows for the admissibility of official gazettes in digital or electronic form. Section 32 of the BSA allows for the use of digital or electronic law books. Section 35 of the BSA considers a final decision, order, or decree issued by the Tribunal. Previously, only final judgments, orders, or decrees from competent courts were considered relevant. Section 39 BSA broadens the definition of an expert to encompass individuals with specific expertise in 'any other subject', in addition to the abilities outlined in section 45 IEA.

Facts which need not be proved

The Court's judicial notice under Section 52 of the BSA has been changed.

Documentary Evidence

Digital records can be stored in several files, each of which serves as primary evidence. If not contested, the electronic record will be produced from proper possession. Video recordings can be kept, streamed, and sent to other devices. All preserved recordings are key evidence. Electronic records are automatically kept in different storage spaces on computer resources. Each automated storage is considered primary evidence. The ambit of Secondary evidence has been expanded in section 58 BSA to include the following :

oral admissions; written admissions, and evidence provided by a person who is skilled in examining certain documents, which being technical or voluminous cannot be conveniently examined. Section 61 of the BSA states that digital or electronic records have the same legal effect, validity, and enforceability as any other document. Section 63 BSA covers electronic documents replicated in semiconductor memory, in addition to optical or magnetic medium as specified in the IEA. The provision now includes electronic records produced by any communication device or kept in any electronic form (e.g., DVR, Flash Drive, CD/DVD, Server, Cloud), rather than just computers, as in the IEA. Electronic and digital records can now be sourced as evidence via a wider range of technologies. Section 63 BSA specifies the requirements for submitting certificates included in "THE SCHEDULE". Previously, a certificate signed by a computer administrator or related activity manager was sufficient. To comply with this condition, a certificate signed by the person in charge of the computer or communication equipment must be accompanied by a certificate signed by an expert (as specified in the BSA Schedule). The certificate must include device type, model, serial number, color, and hash value. The expert's certificate verifies the authenticity of electronic records used in evidence. The section does not specify who is an expert. Section 79A of the IT Act defines 'Examiner of electronic evidence' as an expert.

Estoppel

Section 122 BSA prohibits tenants or others claiming through them from denying that their landlord has title to the immovable property at the outset of the tenancy. The phrase "or any time thereafter" has been inserted.

OF Witness

The word "lunacy" has been replaced by "mental illness" under section 124 BSA. Section 138 BSA states that an accomplice can be a competent witness against an accused person, and a conviction based on corroborated testimony is not illegal. This resolves the discrepancy with illustration (b) in part 114 IEA (formerly section 119 BSA).

IJETRM

International Journal of Engineering Technology Research & Management

Published By:

<https://www.ijetrm.com/>

Privileged communication

Section 165 BSA disallows any court to demand production of any communication between ministers and President of India.

CONCLUSION:

The new criminal laws enacted by our Parliament of India is updated related to technology and Reformation factors. The modern trend of Judiciary will adapt the New Criminal laws. The speedy trial and cost effective aspect covers these type of laws. Hence, The New Criminal law will be very useful for the society. Lack of delay is the main problem in our society But, These three laws will be settle the problem in very quick manner. All the Technological aspects was given importance to settle the problem in amicable manner. The term Gender has been clearly defined in the law. These three criminal law is the transformation for the upcoming century in the new era. Some of the new offences are added in the new laws, some of them are altered and some of them are deleted. Punishment are given more in the new criminal laws in these three laws. All the process in these laws were very smoothly function in the proceedings. The victim rights are clearly mentioned in these laws. Special laws are merged with this local laws and benefited for the society upliftment. These new criminal laws will be for the modern trends of the society and welfare of people.

SUGGESTION:

- These three criminal law will adapt for the modern society.
- All the Technological aspect are given preference in these three criminal laws.
- Speedy Justice will be given for the Litigant.
- Punishment is more prescribed in these new criminal laws.
- Colonial legislation is eradicated in new criminal laws.
- Victim protection highlighted in these new criminal laws.
- New laws are introduced in the new criminal laws.