
THE NEED TO REFORM THE AGE-OLD CRIMINAL LAWS

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Ashwini Kumar Sharma, Law Student, Aditya College of Law, Bangalore

ABSTRACT

India is trying to become more modern, and to do that, it needs to take a close look at its laws. Some of these laws, like the Criminal Procedure Code (CrPC), Indian Penal Code (IPC), and Indian Evidence Act, are quite old, dating back to the colonial era in 1973, 1860, and 1872. As times have changed, these laws have shown some problems in dealing with today's complex crimes and legal matters. This article talks about the urgent need to update and improve these laws to match the current needs of society and the legal system.

The article also points out that to make these changes, it's important to involve legal experts, teachers, practitioners, and the public. By including different viewpoints and wisdom from various people, the new laws can be more effective. Even though changing these old laws is tough, the article stresses how crucial it is. It suggests a well-rounded approach involving everyone: talking to stakeholders, creating awareness among the public, making sure the laws make sense, and following the basic principles of fairness and human rights. The goal is to have a legal system in India that is fair, works well, and meets the needs of today's world.

Keywords: *Colonial Era, Human Rights, Legal Experts, Modern, Society.*

1. INTRODUCTION

As India strides towards modernization and development, the need to replace the Criminal Procedure Code (CrPC)¹, Indian Penal Code (IPC)², and Indian Evidence Act³ has become increasingly apparent. These laws, which were enacted during the British colonial era, have, over time, proven to be inadequate in addressing the complexities and evolving nature of crimes and legal proceedings in the contemporary context. The prevalent inadequacies and loopholes in these laws have led to myriad challenges in the Indian legal system, thereby necessitating a comprehensive overhaul in order to keep pace with the changing societal dynamics and legal requirements.

2. ORIGIN

The Criminal Procedure Code, enacted in 1973, is primarily aimed at regulating the machinery for the investigation, prosecution, and trial of criminal offenses. However, the current CrPC lacks provisions to address emerging challenges such as cybercrimes, money laundering, organized crime, and terrorism. The absence of specific guidelines to deal with these modern-day criminal activities hampers the effectiveness of law enforcement agencies and the judiciary in tackling these issues efficiently. Moreover, the lengthy and cumbersome trial procedures outlined in the CrPC often result in delayed justice, thereby undermining public trust in the legal system.

Similarly, the Indian Penal Code, which was drafted in 1860, also presents numerous deficiencies in addressing contemporary criminal activities. The IPC does not adequately encompass various forms of cybercrime, white-collar crimes, and offences related to technology and intellectual property. The absence of specific provisions addressing these modern offences creates ambiguities and challenges in prosecuting and convicting offenders, consequently obstructing the swift administration of justice. Additionally, there is a need to review and redefine certain criminal offences and their corresponding punishments in line with evolving societal norms and ethical standards.

Furthermore, the Indian Evidence Act, which governs the admissibility of evidence in Indian

¹ Code of Criminal Procedure, 1973, No. 2, Acts of Parliament, 1974 (India)

² Indian Penal Code, 1860, No. 45, Acts of Parliament, 1860 (India)

³ Indian Evidence Act, 1872, No. 1, Acts of Parliament, 1872 (India)

courts, is also in need of comprehensive reform. The advent of technology and digital evidence has reshaped the landscape of evidence collection and presentation. However, the existing provisions of the Indian Evidence Act do not fully accommodate the nuances and challenges associated with digital and scientific evidence, leading to complexities and uncertainties in their admissibility and probative value in court proceedings. In light of these inadequacies, there is a pressing need for an evidence law that is reflective of the advancements in technology and scientific evidence while ensuring the preservation of fundamental principles of justice and fairness.

3. THE NEED FOR REPLACEMENT

The replacement of these archaic laws with modern and comprehensive legislation is imperative to address the deficiencies and inadequacies that persist in the Indian legal system. A reformed legal framework should take into consideration the following key aspects to meet the contemporary demands of justice and law enforcement:

- **Inclusion of Provisions for Emerging Crimes:** The new legal framework should explicitly incorporate provisions to address modern-day crimes such as cybercrimes, money laundering, identity theft, and crimes against the environment. This inclusion will enable law enforcement agencies and judicial bodies to effectively investigate, prosecute, and adjudicate cases arising from these offences, thereby reinforcing the rule of law in the country⁴.
- **Swift and Efficient Trial Procedures:** The replacement laws should streamline the trial procedures to ensure swift and efficient dispensation of justice. Introducing alternative dispute resolution mechanisms and expediting the trial process will minimise delays and the backlog of cases, ultimately leading to the timely resolution of legal disputes⁵.
- **Protection of Civil Liberties and Human Rights:** The reformed legal framework must prioritise the protection of civil liberties and human rights. Provisions safeguarding

⁴ Saloni Sharma & Arshdeep Singh, *Revamping The British Era Laws: IPC, CrPC And Evidence Act*, 5(4) INDIAN J. L. & LEGAL RSCH. (2023)

⁵ Dr. R.P. Verma, *New Criminal Laws in India: Reform or Repackaging?*, 20(1) INT'L ADVANCE J. ENG'G, SCI. & MGMT. (2023)

individuals from unlawful detention, arbitrary arrests, and unwarranted intrusion into privacy should be explicitly enshrined to align with constitutional guarantees and international human rights standards.

- **Integration of Technology and Digital Evidence:** Given the proliferation of digital advancements, the new legislation should encompass provisions for the collection, preservation, and admissibility of digital and scientific evidence. This integration will ensure that evidentiary rules are reflective of technological advancements, thereby enhancing the reliability and authenticity of evidence presented in courts.
- **Modernization of Criminal Offences and Penalties:** The replacement laws should modernise and redefine criminal offences and their corresponding penalties, taking into account evolving societal norms, ethical standards, and global best practices. This modernization will align the legal framework with contemporary sensibilities and deterrence principles while addressing the nuances of modern criminal activities⁶.
- **Enhanced Victim Protection and Rehabilitation:** The reformed legal framework should emphasise the protection and rehabilitation of victims of crime⁷. Introducing provisions for victim compensation, witness protection, and support programmes will reaffirm the state's commitment to securing justice for the aggrieved parties and foster a more victim-centric legal system.
- **Integration of Restorative Justice Principles:** Embracing restorative justice principles in the new legal framework can potentially transform the outlook of the criminal justice system. Restorative justice focuses on repairing the harm caused by criminal behavior through cooperative processes that include all stakeholders. Integrating such principles can lead to more holistic and community-centric approaches to resolving conflicts and addressing the aftermath of criminal acts.

In undertaking the monumental task of replacing the CrPC, IPC, and Indian Evidence Act, it is imperative for the legislative and judicial authorities to engage in extensive consultations with legal experts, academicians, practitioners, and the public at large. This inclusive approach will ensure that the reformed laws are a product of collective wisdom, diverse

⁶ Sharma & Singh, *supra* note 4

⁷ Verma, *supra* note 5

perspectives, and empirical insights, thereby enhancing their effectiveness and legitimacy.

4. HURDLES IN REFORMING THE AGE-OLD STATUTES

Reforming the Criminal Procedure Code (CrPC), Indian Penal Code (IPC), and Indian Evidence Act is a complex and challenging task that involves addressing various legal, procedural, and societal aspects. Some potential challenges in reforming these laws include:

- **Legal Complexity:** The existing laws are complex and have evolved over time, incorporating numerous provisions and precedents. Changing these laws while ensuring legal coherence and consistency can be a major challenge.
- **Resistance to Change:** Any attempt to reform the CrPC, IPC, and Indian Evidence Act may face resistance from various stakeholders, including legal professionals, law enforcement agencies, and the judiciary, who may be accustomed to the existing legal framework.
- **Balancing Rights and Duties:** Reforms need to strike a balance between protecting the rights of individuals, ensuring fair trial procedures, and empowering law enforcement agencies to effectively deal with crime and maintain public safety⁸.
- **Resource Constraints:** Implementing reforms may require significant financial and human resources for training, capacity building, and infrastructure improvements within the legal and law enforcement systems.
- **Public Perception and Awareness:** Reform initiatives may face challenges in garnering public support and understanding due to limited awareness and misconceptions about the proposed changes.
- **Political Will:** Reforming the criminal justice system requires sustained political will and bipartisan support, as well as a commitment to overcoming political obstacles and vested interests⁹.

⁸ *Is there a need to replace the IPC, the CrPC and the Evidence Act?*, GOKULAM SEEK IAS (Dec. 14, 2023, 8:30 PM), <https://gokulamseekias.com/mains-c-a/editorial-analysis/is-there-a-need-to-replace-the-ipc-the-crpc-and-the-evidence-act/>

- **Interconnectedness of Laws:** The CrPC, IPC, and Indian Evidence Act are interconnected with other laws and legal procedures. Reforming them in isolation without addressing related legislation and regulations may lead to inefficiencies and inconsistencies in the legal system.
- **Judicial Backlog:** Reforms should address the issue of judicial backlog and delays in the legal process, which may require changes in rules, procedures, and judicial capacity.
- **Substantive vs. Procedural Law:** Balancing substantive laws (like the IPC) with procedural laws (like the CrPC and Indian Evidence Act) is vital to ensure that the reforms are comprehensive and address both substantive offences and procedural aspects of criminal justice.
- **Societal and Cultural Factors:** Reforms should be sensitive to the diverse cultural and societal factors that shape legal processes, evidentiary standards, and the administration of justice.
- **International Best Practices:** Incorporating international best practices in legal reform while maintaining the distinct legal and societal context of India can pose a challenge.
- **Consultation and Consensus:** Building consensus among diverse stakeholders, including legal experts, scholars, civil society organizations, and affected communities, is crucial for successful reform efforts.

5. CONCLUSION

While the hurdles in reforming the CrPC, IPC, and Indian Evidence Act are indeed significant, it is important to acknowledge that such reforms are essential for ensuring a fair, efficient, and effective criminal justice system that upholds the rule of law and protects the rights of all individuals. Overcoming these hurdles will require a multi-faceted approach that engages stakeholders, promotes public awareness, ensures legal coherence, and aligns with the broader principles of justice and human rights.

⁹ *Is there a need to replace the IPC, the CrPC and the Evidence Act?*, FORUM IAS (Dec. 15, 2023, 7:40 PM), <https://forumias.com/blog/is-there-a-need-to-replace-the-ipc-the-crpc-and-the-evidence-act/>