



# DIA-LA(W)-GUE

**RECENT REPLACEMENT OF THE IPC, Cr.PC AND THE EVIDENCE ACT BY NEW CRIMINAL LAWS**

**HERITAGE LAW COLLEGE**



Campus : Chowbaga Road, Anandapur P.O  
East Kolkata Township , Kolkata- 700107  
Ph: 8420193533/03366270575  
Fax: +913324430455  
Email: admin@hlc.edu.in  
Website : www.hlc.edu.in

**UPAYAN CHAKRABORTY**



# EDITORIAL BOARD AND DESIGN TEAM



- **SOUPAMA SEN**  
*9th Semester*
- **ABHISHIKTA PURKAYASTHA**  
*7th Semester*
- **ALAPAN SARKAR**  
*7th Semester*
- **ANUSHKA SAHA**  
*7th Semester*
- **BISWADEEP GHOSH**  
*7th Semester*
- **PRIYADARSINE LAW**  
*7th Semester*
- **SHINJINEE DASGUPTA**  
*7th Semester*
- **DHRUBJOTY DAWN**  
*5th Semester*
- **TIYASHA HAZRA**  
*5th semester*
- **ADDAYA GHOSH**  
*3rd Semester*
- **DEBABRATI ROY CHOWDHURY**  
*3rd Semester*



# FROM THE EDITOR'S DESK

---



Hello everyone!

It is again that time of the year when we bask in the golden glow of the winter sun that makes our December days cozy and comfortable in this part of the globe. It is also that time of the year when the members of Team Dia-La(w)-Gue willingly burn the midnight oil to publish a new edition of the E-Magazine which, over the years has become an unique and precious creation of our premiere institution.

The content for this edition of Dia-La(w)-Gue is based on the recent alteration in the existing legal framework of India with the adoption of the new laws that is *Bharatiya Nyaya Sanhita*, *Bharatiya Nagarik Suraksha Sanhita* and *Bharatiya Sakshya Adhiniyam* from 1st July, 2024. Alongside our usual sections, we are proud to feature the valued points of view of renowned legal practitioners regarding this seminal transformation which would forever remain a momentous occurrence in the legal history of our nation.

We are honored to introduce a new section entitled '*Alumni Corner*' from this edition of the E-Magazine. It contains contributions from our distinguished alumni who have become integral parts of the legal fraternity and have kindly agreed to write for their alma mater. This addition will definitely inspire the existing batches and also enrich the academic excellence of our E-Magazine.

I extend my gratitude to all the students who have managed to take time out of their busy schedule and contributed Articles and Artworks to this edition and as always, I am thankful to the members of our team without whose support and cooperation, nothing could have been possible.

Happy reading, my friends!!

Cheers!!!

*Sayantani Ghil*  
Editor

Dia-La(w)-Gue





# Table Of CONTENTS

1

*"THE ENORMOUS RESPONSIBILITY OF THE NEW LAW"* -  
ADV. NIHARIKA MUKHERJEE

3

GUEST SPEAK

10

FACULTY SPEAK

14

ALUMNI CORNER

17

KEY INSIGHTS INTO IPC, Cr.PC AND EVIDENCE ACT

23

REVAMPING JUSTICE: INDIA'S BOLD AMENDMENTS TO  
THREE KEY CRIMINAL LAWS

27

ARTICLES

47

COMPARATIVE ANALYSIS OF IPC, CRPC, EVIDENCE ACT,  
AND EMERGING LEGAL ACTS: BNS, BNSS, AND BSA

51

DID YOU KNOW?

53

THE AMAZING WORLD OF INTERNATIONAL LAW

54

EVENT GALLERY





# "THE ENORMOUS RESPONSIBILITY OF THE NEW LAW" - ADV. NIHARIKA MUKHERJEE

?

What's your opinion regarding the Bharatiya Nyaya Sanhita (BNS)? Do provisions on terrorism, sexual offenses, and hate speech risk unintended consequences?

?

BNS the amended code of IPC is now in a more compact and comprehensive form created in an alphabetical and in more logical form and giving stricter punishments to cut down on the heinous crimes.

The Bharatiya Nyaya Sanhita (BNS) or Indian Penal Code (IPC) has provisions related to terrorism, sexual offenses, and hate speech. While these provisions aim to address serious issues, there are concerns about potential unintended consequences.



Are the harsher punishments under BNS (e.g., for sexual and organized crimes) justified, or do they risk being overly punitive from a defense standpoint?

?

The Bharatiya Nyaya Sanhita (BNS) introduces harsher punishments for certain crimes, including sexual and organized offenses. While the intention is to deter and punish serious crimes, there are concerns from a defense standpoint that these punishments might be overly punitive. Justifications for harsher punishments might include Deterrence, Public safety, Victim satisfaction. Concerns about overly punitive measures includes Disproportionate sentencing, Lack of rehabilitation, Unintended consequences, Potential for miscarriages of justice.

?

With expanded police powers under BSA, including preventive detention and surveillance, how can potential overreach be mitigated?

?



The Bharatiya Sakshya Adhiniyam (BSA) expands police powers, including preventive detention and surveillance. To mitigate potential overreach it has Institutional Safeguards like Independent Oversight Bodies, Judicial Review, Parliamentary Oversight. The Procedural Safeguards includes Clear Guidelines, Warrant Requirements, Time Limits. The Transparency and Accountability deals with Public Disclosure, Complaint Mechanisms, Annual Reporting. By implementing these measures, the risk of police overreach under the BSA can be mitigated, ensuring that expanded powers are used responsibly and in accordance with the rule of law.



Do amendments in the Bharatiya Sakshya Adhiniyam (BSA), especially on arrest, custody, and bail, provide adequate safeguards for the accused?



To balance the need for punishment with the risk of being overly punitive, it's essential to Ensure clear and specific definitions, Implement proportionate sentencing, provide opportunities for rehabilitation, Regularly review and revise laws. The Bharatiya Sakshya Adhiniyam (BSA) amendments aim to improve the criminal justice system, particularly regarding arrest, custody, and bail. While the amendments intend to provide better safeguards for the accused, there are concerns about their adequacy such as the Safeguards for the Accused like Right to counsel, Restrictions on arrest, Time-bound bail hearings, Protections against custodial torture. Some of the Concerns and Shortcomings are Ambiguities in arrest guidelines, Insufficient protection for vulnerable groups, Limited access to counsel, Inadequate mechanisms for addressing police misconduct. Few Recommendations are Clear and specific guidelines, Regular training for law enforcement, Increased access to quality legal representation, independent oversight mechanisms.



Will the BSA's focus on expedited trials reduce delays effectively, or could it compromise fair trial principles?

The Bharatiya Sakshya Adhiniyam (BSA) aims to expedite trials, reducing delays in the Indian justice system. However, there are concerns that this focus might compromise fair trial principles like the Effective Reduction of Delays through Streamlined procedures, Increased efficiency, Reduced backlog. The Potential Compromise of Fair Trial Principles includes Rushed justice, Insufficient time for preparation, Limited opportunities for appeal, Pressure on judges. Other than these for Balancing Efficiency and Fairness BSA ensure focus on expedited trials does not compromise fair trial principles, and considers Implementing robust case management systems, Providing adequate resources, Maintaining flexibility, Monitoring and evaluating.

Niharika Mukherjee is a practicing advocate based at Alipore Judge's Court and Alipore Police Court. She specializes in criminal law and has extensive experience handling a variety of criminal matters.

She completed her BA.LLB (Hons) from the prestigious University of Calcutta, equipping her with a strong foundation in legal principles and practical expertise. With a commitment to justice and a client-focused approach, Niharika has earned a reputation for her diligence and dedication in the legal field.

Correspondence initiative by:  
Priyadarshine Law







## GUEST SPEAK



### Mr. Sudarsan Roy Advocate, Calcutta High Court

Adv. Sudarsan Roy is a dedicated and experienced advocate practicing at the Calcutta High Court. Specializing in civil law, criminal law, constitutional law, trust and estate law, family law and more, providing strategic legal counsel and representation to clients across all legal zones. With over 30 years of professional experience in the legal fraternity, is committed to delivering effective solutions meeting the needs of client, well-known for their strong analytical skills, persuasive advocacy, and a deep understanding of legal precedents, and has successfully represented clients in numerous matters, offering legal advisory services, including writs, contract drafting, dispute resolution, legal compliance, etc., maintaining a reputation for ethical practice and a results-oriented approach.

The criminal justice system in India, primarily based and founded on laws from the colonial era such as The Indian Penal Code 1860 (IPC), Code of Criminal Procedure Code (Cr.PC) and The Indian Evidence Act, 1872 serving as the fundamental legal framework in India to establishing legal liability to specific offences and their exceptions, encompassing set of laws including definition of offences, incorporating all the elements necessary to constitute such crime and its penalties and the procedures to execute such laws and thereafter, the law to ascertain certain statements and material evidence supporting such contentions that has been made to certain offence by some person. All of these laws applies to all Indian citizens and individuals of Indian origin for more 160 years as significant substantive and procedural law respectively.

Law is such a subject that governs the acts of human beings living in a society who are dynamic in nature and with the ever changing society and its people the law needs to change too. The legislature understood that the enacted laws of IPC, CrPC and The Evidence Act, 1872 were enough to satisfy the modern legal needs, lacking particular defining of offences and severity of penalties and penalties thereto and thereafter it saw a need to reform the existing substantial law and procedural law in the criminal realm in India with more extensive defining of offences of criminal nature and necessary elements to constitute the same and its respective punishment, procedures and evidences. Thus, on July 1, 2024 the new criminal laws, Bharatiya Nyaya Sanhita, Bharatiya Nagarik Suraksha Sanhita, and Bharatiya Sakshya Adhiniyam, were introduced replacing the IPC, CrPC, and Indian Evidence Act, 1872.

The old criminal laws were established in the colonial era for the offences, legal liability to certain offences, penalties and punishments happening in the society. Needless to say the society changed considerably since then and in order to fill in the created gap and unfilled space with the changing society, thereafter the new criminal laws has been established.

In order to articulate, point out the differences in the old and new criminal laws, it may be said that the new reform has more victim centric approach than prioritising victim rights, protections, compensation and speedy trial of heinous crimes unlike focusing on the crime committed and punishments as in old laws. Furthermore, the new laws have considerably focused on gender neutrality and inclusivity with laws for offences like marital rape and crime against all genders which was formerly overlooked. The new criminal laws have introduced e-filings, virtual hearings and modern investigative tools simplifying procedural laws to expedite trials and remove backlogs for indefinite time. Amongst various changes that has taken place between the old criminal laws and new criminal laws one of the most important is the decriminalization of certain offences or simplified as the penalties for such offences were not needed much and more focus has been put to more pressing issues that require considerable attention, time and penalties. The old criminal laws were designed in and for the colonial governance by the British Government focusing on control than justice.



Collected by  
Soumee Roy

The modern society is more technologically advanced and issue like cybercrime, financial fraud were not adequately addressed in the previous laws, thereafter, seeking changes. The then society being a patriarchal one put minimum focus on gender equality and freedom at all aspects, the new law have focused on gender equality, privacy and free speech and movement in safety and security. The new criminal laws brought revitalizing principle of justice, focus on rehabilitation than retribution as basis for punishments and procedures and more accountability of investigating agencies and officers thereafter removing backlogs in courts with streamlined laws reducing procedural delays and shallow litigation.

The new criminal laws Bhartiya Nyaya Sanhita, 2023, Bhartiya Nagarik Suraksha Sanhita, 2023 and Bhartiya Sakshya Adhiniyam, 2023 replacing the long-standing penal laws of The Indian Penal Code, 1860, The Code of Criminal Procedure, 1973 and The Indian Evidence Act, 1872 has been introduced with on July 1, 2024 focusing on serving of justice and the victim focusing primarily on rehabilitation rather than on punishment, being more citizen centric it is easier to understand and more accessible to all than it has always been with broader inclusivity and equality of all genders putting an end to the partial and irrelevant part of penal laws that were against the changing and developing society. Therefore, with the sifting design of society the penal laws encompassing set of laws including definition of offences, legal liabilities towards them and punishments thereto awaited a change to make the criminal justice system faster, more accountable, efficient and transparent, incorporating use of technology by allowing witnesses, experts and accused to provide digital evidences, reflecting societal values and technological advancements at large.

## Mr. Deepak Kumar Singh Advocate, Calcutta High Court

Mr. Deepak Kumar Singh is a seasoned Advocate with over 36 years of extensive experience in the legal field. Practicing primarily in the High Court at Calcutta, he has adeptly handled a wide range of cases in civil, criminal, and writ matters. Alongside his High Court practice, he has provided skilled representation in Alipore Police Court, City Sessions Court, City Civil Court, and various Tribunals. His deep knowledge of the law, unwavering commitment to justice, and diverse practice areas have earned him the respect of clients and peers alike.

The Indian Parliament passed three acts, namely, the Bharatiya Nyaya Sanhita, 2023, the Bharatiya Nagarik Suraksha Sanhita, 2023, and the Bharatiya Sakshya Adhiniyam, 2023, replacing the Indian Penal Code, 1860, the Code of Criminal Procedure, 1973, and the Indian Evidence Act, 1872, respectively. These three acts came into force on July 1, 2024, and from that date, courts in India started receiving applications, petitions, and complaints based on the new acts, and have begun adjudicating cases accordingly.

In my personal legal opinion, I do not see any valid reason for the Government of India to have replaced these three acts without altering the basic structure of the law. Upon a detailed examination of the sections in these new acts, I find that the majority of the provisions remain unchanged. The sections of the Indian Penal Code (IPC), the Code of Criminal Procedure (Cr.PC), and the Evidence Act have merely been renumbered in the new acts without any significant change in their nature or character.

Some sections of the IPC were already repealed, either by orders of the Hon'ble Supreme Court of India or by Parliament itself. Additionally, only a maximum of 10 new sections have been added to these acts. For this minimal addition, overhauling the entire structure of the original acts seems, in my view, to be unnecessary and illogical. The drafters of the new laws appear not to have considered the difficulties this will cause for law enforcement agencies, custodians of the law, courts, and advocates.

Furthermore, proceedings initiated before July 1, 2024, will continue to be governed by the old acts—IPC, Cr.PC, and the Evidence Act—and these cases may drag on for decades, given the notoriously lengthy judicial processes in India.





Collected by  
Soupama Sen

The delays in the system often deprive individuals of timely justice, rendering the outcome futile. This dual system will make it practically impossible for lawyers, courts, and law enforcement agencies to juggle between the provisions of the old and new acts. In my view, replacing the IPC with the Bharatiya Nyaya Sanhita (BNS), the Cr.PC with the Bharatiya Nagarik Suraksha Sanhita (BNSS), and the Evidence Act with the Bharatiya Sakshya Adhinyam (BSA) serves no purpose other than satisfying the personal egos of those in power. The biggest challenge will likely be faced by new entrants into the legal profession and paralegals, who will be left confused about how to plead their cases under the new framework.

The law-making agencies failed to consider the additional burden this would impose on law enforcement agencies, courts, advocates, and students.

I have also gathered that universities and colleges are still teaching based on the old acts. Consequently, when students graduate and enter into the legal profession, they will face significant confusion due to the discrepancies between the old and new laws.

The government has previously replaced other laws successfully, such as partially replacing the Companies Act with the Insolvency and Bankruptcy Code, 2016. In that case, matters related to the Companies Act were transferred to the NCLT (National Company Law Tribunal), and all stakeholders understood its purpose. However, in the case of these three acts, there appears to be no clear objective or goal behind the replacement.

This is my personal legal opinion, which may vary from person to person. Other legal professionals or advocates are entitled to express differing views or critique my perspective.

Mr. Sanjib Dawn

Advocate,  
Calcutta High Court

Sanjib Dawn, Advocate, has been practicing at the Calcutta High Court for over 30 years. He specializes in both civil and criminal matters, offering expert legal counsel and representation. Known for his dedication and in-depth knowledge, he has handled numerous high-profile cases. His practice is rooted in a commitment to justice and client advocacy.

The introduction of the Bharatiya Nyaya Sanhita (BNS), Bharatiya Nagarik Suraksha Sanhita (BNSS), and Bharatiya Sakshya Adhinyam (BSA) has sparked significant discourse within legal circles and beyond. These new acts are poised to replace the colonial-era Indian Penal Code (IPC), Code of Criminal Procedure (CrPC), and Indian Evidence Act—a move heralded by some as a long-overdue modernization of India's legal framework, while others caution about the challenges inherent in such an overhaul. As an advocate, it is crucial to examine the necessity, implications, and potential pitfalls of these reforms from a balanced perspective.

The IPC, CrPC, and Evidence Act were products of their time, designed to serve the interests of colonial rulers. Their archaic language, outdated provisions, and focus on state control have long been criticized as unsuited to the needs of a 21st-century democratic society. These laws, while robust in their foundational principles, often lack the clarity and adaptability required to address contemporary challenges.

The new laws aim to simplify legal language, making them more accessible not only to legal professionals but also to ordinary citizens. This democratization of the law ensures that its interpretation is less ambiguous, facilitating smoother navigation of the justice system by all stakeholders—citizens, law enforcement, and the judiciary.

One of the most pressing needs for reform stemmed from the inability of the old laws to comprehensively address modern crimes. Cybercrimes such as hacking, phishing, and cyberstalking, as well as issues related to digital evidence, were inadequately covered.



The Bharatiya Sakshya Adhiniyam introduces explicit provisions for digital forensics and electronic evidence, ensuring clear guidelines for admissibility and authenticity. This is a vital update in an era where technology plays a central role in both crimes and investigations.

Similarly, the BNSS incorporates provisions to streamline procedures through digital tools for case management, arrest, bail, and trials. This not only promises greater efficiency but also reduces procedural errors and opportunities for manipulation. Such advancements demonstrate recognition of the necessity to adapt the legal system to the realities of a digital age.

India's justice system has long been plagued by delays and inefficiencies. The BNSS attempts to rectify this by simplifying procedures, expediting trials, and addressing long-standing procedural bottlenecks. For example, heinous crimes such as mob lynching and sexual violence are now subject to stricter penalties and faster resolution timelines. This shift toward victim-centric justice is crucial to restoring public confidence in the legal system.

Moreover, economic offenses and cybercrimes like money laundering, tax evasion, and ransomware attacks—which were either inadequately addressed or entirely absent from the old statutes—are now explicitly covered under the BNS. These tailored provisions ensure that enforcement agencies are better equipped to tackle contemporary challenges.

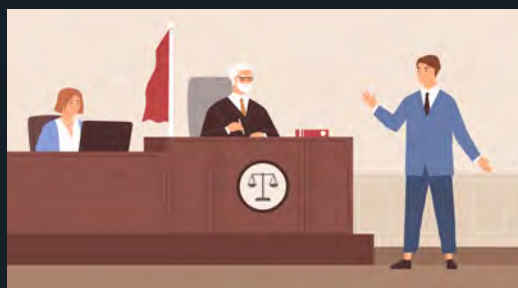
While the intent behind these reforms is commendable, the transition has not been without challenges. Legal practitioners, law enforcement, and judicial institutions accustomed to the old laws must now adapt to the new framework. This learning curve may initially create confusion and inefficiencies.

Critics have raised concerns about specific provisions in the new laws. Enhanced powers of arrest under the BNSS and provisions such as Section 150 of the BNS (addressing sedition) have been flagged as areas prone to misuse. Similarly, the shifting burden of proof in cases involving digital evidence under the BSA raises questions about fairness and the potential for overreach. These issues underscore the importance of careful implementation and regular review to prevent unintended consequences.

Could the goals of these reforms have been achieved through amendments to the existing laws? While amendments might have preserved continuity, they also risked perpetuating inconsistencies that have emerged over decades of piecemeal changes. A complete overhaul offers a cleaner, unified approach that aligns all provisions with contemporary realities. However, this comes at the cost of disrupting established practices, necessitating extensive training and adaptation efforts for stakeholders.

The introduction of BNS, BNSS, and BSA marks a significant step toward modernizing India's legal framework. These reforms address systemic inefficiencies, align the law with technological advancements, and emphasize victim-centric justice. While the transition may pose challenges, the potential benefits of a streamlined, accessible, and contemporary legal system outweigh the costs.

As an advocate, it is imperative to approach this transition with both optimism and vigilance. The success of these reforms will depend on their careful implementation, regular review, and the commitment of all stakeholders to uphold the principles of justice, equity, and accountability. Only then can these new laws truly fulfill their promise of a just and efficient legal system for a modern India.





Mr. Debashish Mallick  
Choudhury

Advocate,  
Calcutta High Court

Mr. Debashish Mallick Choudhury is practicing independently at the High Court at Calcutta, with expertise in both Original and Appellate jurisdictions. He is experienced in drafting criminal complaints under the Code of Criminal Procedure and the Indian Penal Code, as well as handling both civil and criminal cases. He also is skilled in preparing criminal appeals, revisional applications under the Code of Criminal Procedure, and applications under Articles 226, 227, and 32 of the Constitution of India. He has extensive experience working alongside esteemed Senior Advocates and Barristers, including Late Ajit Kumar Panja, Sr. Advocate & Bar-at-Law, Sri Ashok Kumar Banerjee, Sri S.K. Kapoor, Sr. Advocate & Bar-at-Law [Ex-Additional Solicitor General], Sri Vikash Singh [Ex-Additional Solicitor General, Government of India], and Sri B.R. Ghosal, Sr. Advocate & Special Counsel for the C.B.I. & N.I.A. He has also represented the C.B.I. as counsel in significant cases such as the Clemency Application by Peter Bleach and the Purulia Arms Drop Appeal in the High Court at Calcutta. Also appeared as counsel for the Narcotics Control Bureau [EZU] in the High Court at Calcutta.

Law is a vast subject that governs the acts of human beings living in a society who are dynamic in nature and forever changing. Now, with the changing society and its people the law too needs change but is it always a good decision to bring changes to meet the variability? Nevertheless, on July 1, 2024 understanding that the long-standing penal law of Indian Penal Code (1860), Code of Criminal Procedure (1973) and Indian Evidence Act (1872) were not enough to satisfy the modern legal needs, the legislature enacted the new criminal laws Bhartiya Nyaya Sanhita (2023), Bhartiya Nagarik Suraksha Sanhita (2023) and Bhartiya Sakshya Adhiniyam (2023) replacing the former penal laws.

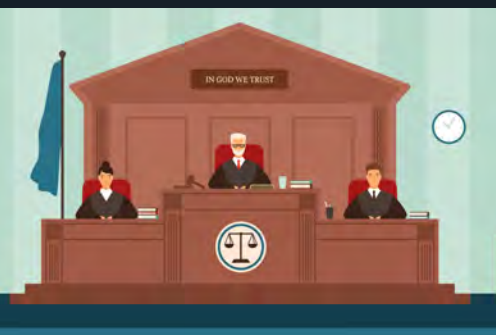
The former penal laws were based and found on laws from the colonial era and has been serving as the sole, strong and ultimate provision for the criminal justice system with amendments from time to time. In regard to the provision under Bhartiya Nyaya Sanhita for terrorism and its risking unintended consequences, particularly for terrorism, there is an existing Act there, i.e. the Unlawful Activities (Prevention) Act 1967, for prevention of unlawful activities and association or threatening the sovereignty and integrity of India, that would require sanction for prosecution, whereas in the provision Bhartiya Nyaya Sanhita for terrorism there has been an illegal clapping of section that may lead to an unintended risk of police officers taking into custody of individuals without complete investigation and thereafter, can be badly used. The broader and vague worded definition of terrorism and national security offences in Bhartiya Nyaya Sanhita may lead to exploitation of the same for political purposes leading to overreach and improper accessibility or risk of diluting the true meaning and impact of the given provision. Since there has been the Unlawful Activities (Prevention) Act 1967, the enactment of the new contradictory provisions was not much of any requirement. Moreover, with almost similar provisions under the Bhartiya Nyaya Sanhita not requiring sanction may lead to its misuse by investigating officers pertaining to those.

The provisions for 'Hate Speech' under the Bhartiya Nyaya Sanhita are good and was needed to curb communal tensions and misinformation, however the risk of suppression of speak exists. These provisions could be used to silent spreading of the unintended tension disturbing normal pace of life, but at the same time the risk of discouragement of critical analysis of legitimate issues may take place.

Thereafter, with respect to provisions for sexual offences as under the new criminal laws of Bhartiya Nyaya Sanhita, they are good and have a broader inclusivity, by extending the definition to inclusions of male and transgender have shown a progressive advancement in the realm of penal laws in India. However, even with the replacing of the penal laws, there are some grave and acute issues, for instance, marital rape, etc that are yet to be reformed, in order to uphold victim rights. Further, harsher penalties for false complaints are leading to the problem of victims fearing to come out and complain, thereafter, still being ambiguous and unattained.

From the defence standpoint, the harsher the punishment under the Bhartiya Nyaya Sanhita for sexual and organised crimes, it risks to be overly punitive. Punishment includes mostly imprisonment, the prison is regarded as a correctional home where a convict is sent for reformation. Harsher or severe punishment does not necessarily assure that an accused will become his best and not commit crime again. Harsher punishment may lead criminals becoming more adamant and violent, thus focus must be on reformation rather than retribution.

Beginning with the amendments as under the Bhartiya Nagarik Suraksha Sanhita, 2023, replacing the Code of Criminal Procedure, 1973, firstly, focusing on the provision to whether for arrest, custody and bail, it provides adequate safeguards for



Collected by  
Soumee Roy

accused, it may be said that except for the provision of cyber photography, not much safeguard has been ensured to the accused. Secondly, Bhartiya Nagarik Suraksha Sanhita, 2023 focuses on expedited trials is an extremely good for reducing of delays effectively, however, if expedited hurriedly, justice may stand to be denied. Lastly, in regard to the provisions in relation to expanded Police Powers under the Bhartiya Nagarik Suraksha Sanhita, 2023, including preventive detention and surveillance, there has been a definite overreach as it is becoming derogatory and hitting Article 20 and 21 of the Constitution of India, by endangering an individual's right to life and personal liberty by way of such severity in regard of preventive detention by police officer and uninterrupted surveillance, it is significantly concerning towards civil liberty and procedural fairness, in order to mitigate such overreach, the law must clearly define the scope and limitation of the police powers, it must also make judicial approval mandatory in police action to ensure fairness. Police officers must receive proper training on constitutional rights, human rights and limitation of police power, it must also educate individuals and accused to avoid misconduct by police. Thereafter, the expanded police powers has not been a very good replacement given the advancing overreach by police personnels.

As under the reforms under the Bhartiya Sakshya Adhiniyam, 2023, the provisions emphasizing digital evidence and forensic aiming to reshape defense strategies, particularly in cyber crime cases Public Prosecutors are justifiable and beneficent, however for better and proper implications, par excellence on training of judicial persons or any person in the field of law is required since in India such expertise is lacked. Furthermore, the reliance on electronic records under Bhartiya Sakshya Adhiniyam, 2023 does not really address the privacy issues of the accused very much and stands to be derogatory to the civil rights of the individuals.

In order to articulate and conclude, the legislature in order to replace the long-standing penal laws existing from the colonial era, of the Indian Penal Code, 1860, the Code of Criminal Procedure, 1973 and the Indian Evidence Act, 1872 by the Bhartiya Nyaya Sanhita, 2023, the Bhartiya Nagarik Suraksha Sanhita, 2023 and the Bhartiya Sakshya Adhiniyam, 2023 have attempted to reform and address issues in relation to efficiency, victim protection and procedural fairness, however, it is debatable whether a right balance is struck between victim rights and rights of accused. The success to this primarily depends upon proper implementation, safeguard against the misuse and reforms in law enforcement alongside building of judicial capacity. The former penal laws being best and found in the colonial era definitely required reforms and changes with the everchanging society, technological advancement and advancement in the ways of a crime being committed. However, it would have been more just, if the reformation was made keeping constant and in action the pre-existing criminal laws rather than completely repealing them. This process of complete repeal of the former laws and enacting the new laws may cause various issues especially for the future legal aspirant who would be having very little idea of the old criminal laws and more accustomed to the new ones in their carrier while handling cases. The new penal laws also demand proper judicial and legal training at all levels for proper understanding and implication of the new laws. Thereafter it would have been scrupulous, effortless and accessible if the reforms were made keeping intact the former laws consequently making it more compact and compatible for all.



Ms. Jeneea Rudra

Advocate,  
Calcutta High Court

Jeneea Rudra is a seasoned criminal advocate with over 25 years of experience, practicing primarily at the Calcutta High Court and various lower courts. Renowned for her expertise in criminal law, she has built a reputation for delivering dedicated legal representation and ensuring justice for her clients. Over the years, Jeneea has successfully handled a diverse range of criminal cases, demonstrating her deep understanding of the legal system and her commitment to upholding the principles of justice.

Collected by  
Dhrubjoty Dawn

The introduction of the Bharatiya Nyaya Sanhita (BNS), Bharatiya Nagarik Suraksha Sanhita (BNSS), and Bharatiya Sakshya Adhiniyam (BSA) has sparked significant debate among legal professionals. This overhaul seeks to replace the Indian Penal Code (IPC), Criminal Procedure Code (CrPC), and the Indian Evidence Act, which had formed the foundation of India's criminal justice system since the colonial era. Advocates navigating this transition offer critical insights into the impact and implications of these changes.

The new laws incorporate provisions addressing modern crimes such as cybercrime, which were inadequately covered under the old framework. This development closes some loopholes in the outdated laws. However, the changes are not as extensive as anticipated. An advocate notes that while certain areas have been improved, the new provisions largely relocate and reword older sections, without introducing substantial reforms. For instance, the section on murder, previously IPC Section 300, is now BNS Section 101, but its essence remains unchanged.

The government's intentions in introducing these new laws appear ambiguous. While the official narrative suggests a desire to make the legal system more "Indian" and shed the colonial imprint, the practical differences between the old and new laws remain limited. This raises questions about whether the overhaul was genuinely intended to modernize the legal framework or simply to repackage it with a nationalistic appeal.

The new laws, operational since July 1, 2024, have not yet demonstrated a significant improvement in the speed or efficiency of the judicial process. It is too early to judge their impact, as only five months have passed since their implementation. However, there is potential for enhanced efficiency in the future, provided the new framework is refined through amendments and supported by better judicial infrastructure.

For practicing criminal advocates, the transition has not caused substantial disruption. The core principles and legal interpretations remain consistent, as the essence of the old provisions has been preserved in the new framework. However, advocates face the challenge of familiarizing themselves with the renumbered and reorganized sections. Decades of experience and established practices based on the old laws now require adaptation, creating a learning curve for legal professionals.

The Victim-Centric approach is a double-edged sword. The new laws emphasize victim-centric provisions, which, while commendable, have sparked criticism. Advocates argue that these provisions compromise the rights of the accused, disrupting the delicate balance between victim and accused rights. The prolonged detention periods and fewer safeguards for the accused under the new framework can lead to significant hardships, particularly for those wrongfully accused. This jeopardizes the constitutional right to life and liberty under Article 21, as the focus shifts heavily toward victims without adequate protections for the accused.

The introduction of BNS, BNSS, and BSA marks a significant symbolic shift in India's legal history. While it aims to modernize and Indianize the criminal justice system, the practical impact remains under scrutiny. For advocates, the changes present both opportunities to address previously unregulated areas like cybercrime and challenges in adapting to a reorganized framework. The ultimate success of this legal transition depends on ensuring a balance between victim-centric provisions and the rights of the accused, along with fostering a judicial environment that supports efficiency and fairness. Only time will reveal whether this overhaul achieves its intended goals or merely serves as a cosmetic change to an enduring system.



# FACULTY SPEAK

## INTRODUCTION

The Bharatiya Nyaya Sanhita (BNS), Bharatiya Nagarik Suraksha Sanhita (BNSS) and Bharatiya Sakshya Adhiniyam (BSA) are transformative legislative reforms replacing colonial-era laws to modernize India's criminal justice system, aligning it with contemporary socio-political realities and democratic values. The Indian Penal Code (IPC), Criminal Procedure Code (Cr.P.C.) and the Indian Evidence Act, originally designed for colonial administration, later on face criticism for their outdated provisions, inadequately addressing modern societal challenges, including digital advancements, complex crimes and the necessity for a victim-centric justice approach in post-independence India. The government has reformed the criminal justice system with new laws - BNS, BNSS and BSA - addressing modern challenges, improving procedural efficiency and aligning with constitutional principles.

### THE BHARATIYA NYAYA SANHITA (BNS)

The Bharatiya Nyaya Sanhita (BNS) introduces twenty (20) new offences addressing modern challenges like organized crime, digital fraud and cybercrimes, reflecting technological impacts on crime. It also strengthens deterrents for thirty three (33) offences, enhancing penalties for serious crimes such as sexual violence and terrorism, demonstrating a commitment to robust justice. Victim-centric provisions focus on the rights of women and children, ensuring timely justice and support, while mandatory minimum sentences for twenty three (23) offences promote consistency and predictability in legal outcomes, reducing judicial discretion in severe cases.

### THE BHARATIYA NAGARIK SURAKSHA SANHITA (BNSS)

The Bharatiya Nagarik Suraksha Sanhita (BNSS) modernizes criminal procedure by revising 160 Sections of the Cr.P.C. to streamline processes and equitably address victim and accused rights. The Bharatiya Nagarik Suraksha Sanhita (BNSS) enhances procedural law by ensuring accused individuals are promptly informed of arrest reasons and have access to legal representation, while also expanding law enforcement's digital evidence access and simplifying procedures to reduce trial delays. It emphasizes transparency and victim participation, offering mechanisms for compensation and support.

These innovations aim to balance the rights of the accused with effective law enforcement, ensuring fair trials and timely justice. The Act's focus on technology and victim support reflects a modern approach to addressing the complexities of contemporary criminal justice challenges.

### THE BHARATIYA SAKSHYA ADHINIYAM (BSA)

The Bharatiya Sakshya Adhiniyam (BSA) updates evidentiary standards to enhance the admissibility and reliability of digital evidence. The Bharatiya Sakshya Adhiniyam (BSA) reforms simplify digital evidence procedures, streamline admissibility rules and adapt to emerging technologies, thereby enhancing the credibility, accessibility and inclusivity of the justice system while ensuring preparedness for novel evidence forms.

## CONCLUSION

The Bharatiya Nyaya Sanhita (BNS), Bharatiya Nagarik Suraksha Sanhita (BNSS) and Bharatiya Sakshya Adhiniyam (BSA) collectively reform India's criminal justice system by prioritizing restorative and preventive justice over colonial punitive approaches. The new legislations enhance judicial efficiency and accessibility by reducing procedural delays and utilizing technology, safeguard the rights of victims and accused individuals and adapt to contemporary challenges by addressing cybercrime, terrorism and organized crime, reflecting a comprehensive approach to modern justice.

**Prof. (Dr.) S.S. Chatterji**  
**Principal**  
**Heritage Law College**





## INTRODUCTION

In the year 2024, India made a great reformation in the Criminal Justice System of India. It has implemented three new Criminal Laws which are commonly known as Bharatiya Nyaya Sanhita (BNS), 2023, Bharatiya Nagarik Suraksha Sanhita (BNSS), 2023, and Bharatiya Sakshya Adhiniyam, 2023.

The purpose of these reforms is to modernize India's criminal justice system, making it more victim-centric and responsive to contemporary challenges. They focus on enhancing national security, incorporating technological advancements, and ensuring justice is served more effectively.

### AN OVERVIEW OF BHARATIYA NYAYA SANHITA (BNS), 2023

The BNS aims to:

- Remove colonial-era biases in the IPC.
- Provide a justice delivery system more in tune with the principles of a democratic and independent India.
- Enhance clarity and ease of application in legal processes.
- Encourage alternative forms of punishment to reduce incarceration rates for minor offenses.

Important features of BNS 2023 are:

#### 1. Enhanced Punishments:

- The law revises penalties for several crimes, aiming for more proportionate punishments.
- For example, community service is introduced as a form of punishment for minor offenses.

#### 2. Introduction of New Offenses:

- The BNS includes 20 new offenses, addressing emerging societal challenges such as cybercrimes, organized crime, and terrorism.

#### 3. Victim-Centric Approach:

- Prioritizes the rights of victims in criminal proceedings.
- Includes provisions to ensure quicker and fairer trials.

#### 4. National Security:

- Adds provisions to strengthen the legal framework for combating terrorism, organized crime, and acts against national sovereignty.

#### 5. Modernization and Technology:

- Recognizes the role of technology in crime and investigation.
- Introduces measures to address digital offenses and electronic evidence.

#### 6. Removal and Simplification of Provisions:

- It removes 19 existing provisions of the IPC that were deemed outdated or redundant.
- Simplifies language and structure for better accessibility and comprehension.

#### 7. Focus on Gender and Vulnerable Sections:

- Expands the scope of laws related to crimes against women and children.
- Enhances protections for vulnerable groups in society.

#### 8. Sedition Replaced:

- The controversial Section 124A (Sedition) is repealed.
- It is replaced by provisions targeting acts that endanger the sovereignty, unity, and integrity of India.

## AN OVERVIEW OF BHARATIYA NAGARIK SURAKSHA SANHITA (BNSS), 2023

The BNSS aims to:

1. **Technological Integration:** The law harnesses technological tools to make criminal justice procedures more efficient, transparent, and secure.
2. **Enhanced National Security:** The BNSS focuses on better handling of organized crime, terrorism, and transnational crime, ensuring India's security in the face of evolving threats.
3. **Faster Justice Delivery:** The law aims to streamline criminal procedures to reduce delays in investigations, trials, and appeals.
4. **Police Accountability:** The reform introduces greater oversight and accountability for police actions, aiming to reduce instances of police abuse and corruption.
5. **Victim Protection:** By emphasizing victim rights and protections, the BNSS seeks to provide victims with faster justice, rehabilitation, and safety.

Important Features of Bharatiya Nagarik Suraksha Sanhita (BNSS), 2023 are:

#### • Non-Custodial Punishments and Rehabilitation:

1. The BNSS emphasizes the use of non-custodial punishments for minor offenses, encouraging community service and other alternative sentencing methods.
2. The system promotes the rehabilitation of offenders, especially in cases where imprisonment might not be the best solution.

#### • Revised Arrest and Bail Procedures:

1. Provides clearer guidelines for arrests, making them more transparent and reducing the possibility of wrongful detentions or abuse of power by law enforcement officers.
2. Bail procedures are made more transparent and streamlined, focusing on the presumption of innocence and ensuring that individuals are not unduly held in custody.

#### • Improved Accountability of Law Enforcement:

1. Police officers and other law enforcement agencies are subject to greater accountability under the BNSS. Mechanisms for oversight and monitoring of police actions have been strengthened to prevent abuse of power.
2. Special provisions ensure that complaints against police misconduct are handled impartially, and independent bodies are empowered to review such complaints.

#### • Streamlined and Time-Bound Procedures:

1. Introduces time limits for police investigations to ensure that cases do not drag on indefinitely, reducing the chances of delay and ensuring that justice is served promptly.
2. Police and judicial officers are encouraged to resolve cases in a time-bound manner, addressing the issue of case backlogs in courts.



- **Victim-Centric Reforms:**

1. The BNSS focuses on improving the victim's experience within the justice system, offering measures for victim protection, such as safe houses and witness protection programs.

2. Compensation schemes for victims are introduced, with a mechanism for quicker disbursement of compensation to survivors of violence or other serious crimes.

- **Reforms in Police Custody and Detention:**

1. Provides detailed guidelines for police custody, including time limits on detention and enhanced safeguards against torture and abuse in custody.

2. Special provisions are made to ensure the protection of vulnerable populations (such as children, women, and minorities) during the investigation and detention process.

- **Focus on Organized and Terror-Related Crimes:**

1. The BNSS strengthens the provisions related to organized crime and terrorism, offering law enforcement agencies greater powers and resources to deal with national security threats.

2. Special courts and fast-track trials are introduced to handle cases related to terrorism and organized crime efficiently.

- **Community Policing and Public Engagement:**

1. Promotes community policing by encouraging greater interaction between law enforcement and the community. This is seen as a way to improve trust in the police, prevent crime, and foster cooperation in maintaining law and order.

2. Local community leaders are encouraged to play an active role in conflict resolution and maintaining peace.

- **Enhanced Role of Forensic Science:**

1. Emphasizes the use of forensic science in investigations, making it mandatory in certain categories of serious offenses, such as murder, rape, and other heinous crimes.

2. Forensic teams are required to be involved in all major investigations to ensure the collection of accurate and reliable evidence.

- **Use of Technology in Criminal Justice:**

1. Digitalization is at the heart of the BNSS, encouraging the use of technology in police investigations, judicial processes, and law enforcement. This includes online filing of FIRs, digital tracking of case progress, and virtual hearings.

2. Forensic evidence is emphasized as a vital tool, with mandatory forensic examination in cases involving serious crimes like murder, sexual offenses, and terror-related activities.

## **AN OVERVIEW OF BHARATIYA SAKSHYA**

### **ADHINIYAM, 2023 (BSA), 2023**

The BSA aims to:

1. **Ensuring Fair Trials:** It seeks to maintain the fairness and integrity of the justice system by ensuring that new forms of evidence (e.g., digital records, expert testimony) are handled with precision and in accordance with established legal principles.

2. **Preventing Evidence Tampering:** The law strengthens measures against evidence tampering, a crucial issue given the increasing reliance on digital evidence in criminal cases.

3. **Admissibility of Digital Evidence:** By allowing electronic and digital evidence, the law brings India's legal framework in line with global best practices, especially in cases involving 4. cybercrimes or complex technological issues.

4. **Modernization of Evidence Handling:** The BSA updates the rules of evidence to account for modern technological advancements, making the legal system more adaptable to current needs.

**Important Features of the Bharatiya Sakshya Adhiniyam (BSA), 2023:**

- **Preservation of Evidence:**

1. The BSA introduces stringent rules for the preservation of evidence, especially digital and electronic evidence, ensuring that it is not tampered with or destroyed.

2. Law enforcement agencies are required to establish protocols for the proper handling, storage, and transportation of evidence, particularly in cases involving cybercrime or tech-based offenses.

- **Admissibility of Digital Evidence:**

1. One of the most significant reforms introduced by the BSA is the explicit recognition and regulation of digital evidence. The law makes it clear that electronic records, digital signatures, and other forms of cyber evidence are legally admissible in courts.

2. It establishes rules for authentication and verification of digital evidence, ensuring that such evidence can be used in a manner that is both reliable and acceptable to the court.

- **Expansion of the Scope of Evidence:**

1. The BSA expands the types of evidence that can be considered in criminal trials. It includes audio and video recordings, social media posts, email communications, and other electronic or digital formats as part of the evidentiary framework.

2. This is especially important in the context of rising cybercrimes and technology-related offenses, where digital evidence often plays a crucial role.

- **Strengthening of Forensic Evidence:**

1. The law strengthens the role of forensic evidence, such as DNA samples, fingerprint analysis, and ballistics reports, in criminal investigations.

2. Forensic evidence now carries greater weight in proving the commission of crimes, particularly in cases involving violence, sexual offenses, or organized crime.

- **Reforms in Witness Testimonies:**

1. The law makes provisions for remote testimonies, allowing witnesses to testify via video conferencing or other digital platforms. This is particularly important in cases where witnesses may be unable or unwilling to appear in court.

2. It also allows for greater protection of vulnerable witnesses, ensuring their safety and minimizing the trauma associated with giving evidence in sensitive cases (e.g., sexual violence or child abuse cases).



- **Electronic Records and Presumption of Accuracy:**
  1. The BSA grants presumption of accuracy for electronic records maintained by any computer or digital system, unless proven otherwise.
  2. This presumption helps streamline cases involving financial transactions, business records, or any other matters that rely on digital record-keeping.
    - **Expert Testimony:**
      1. The law lays down clearer guidelines for the admissibility of expert testimony, particularly in areas like digital forensics, cyber investigations, and technological issues.
      2. It allows experts to present their findings using modern techniques and tools, thus enhancing the reliability of scientific evidence in trials.
    - **Provisions for Tampering with Evidence:**
      1. The BSA introduces harsher penalties for the tampering or destruction of evidence, recognizing that technology-related offenses can involve sophisticated methods of evidence manipulation.
      2. The law also mandates stricter punishments for individuals or organizations involved in fabricating or altering digital records to mislead investigations or court proceedings.
    - **Improvements in Authentication and Chain of Custody:**
      1. The law introduces specific guidelines for the authentication of evidence presented in court, especially digital or electronic evidence, which requires clear proof that the evidence has not been tampered with or altered.
      2. It also mandates a chain of custody to be established for all evidence, ensuring that the evidence remains intact and can be traced back to the moment it was collected.
    - **Preserving Legal Principles While Adapting to Technological Advances:**
      1. The BSA seeks to preserve the fundamental principles of justice and fairness, ensuring that technological advancements do not undermine the basic rights of the accused or the integrity of the justice system.
      2. The law balances modernity with tradition, ensuring that digital evidence is handled with the same rigor as physical evidence, while adhering to standards of authenticity and fairness.

### CONCLUSION

In conclusion, it may be said that The BNS, BNSS, and BNA, 2023, represent a commendable effort to rejuvenate India's legal system and make it fit for a modern democracy. However, their success will hinge on effective implementation, capacity-building initiatives, and continuous refinement based on societal needs and feedback.

**Prof. (Dr.) Santanu Mitra**  
**Associate Professor**  
**Heritage Law College**







## REIMAGINING JUSTICE: INDIA'S NEW CRIMINAL LAWS AS A BOLD STEP WITH SHADOWS TO OVERCOME

India's justice system is undergoing a transformation that could define the future of how justice is understood, administered, and experienced by millions. The introduction of three new laws—the Bharatiya Nyaya Sanhita, Bharatiya Nagarik Suraksha Sanhita, and the Bharatiya Sakshya Adhiniyam—marks a groundbreaking shift. These laws, crafted to replace their colonial predecessors, are India's attempt to create a justice system that resonates with our time and values. But with bold steps come shadowy corners, as these sweeping changes raise as many questions as they aim to answer.

As citizens who will grow alongside this reformed justice system, we must ask ourselves: What do these changes mean for our rights, our security, and the moral fiber of the society we strive to build? Are they the pillars of a brighter, fairer India—or are they ambitious reforms standing on a shaky foundation? Let's walk through the heart of these laws, seeking not only the promising light but also the areas still waiting to be illuminated.

### **The Bharatiya Nyaya Sanhita: A People's Penal Code?**

Replacing the Indian Penal Code (IPC), the Bharatiya Nyaya Sanhita aims to shed the colonial shadows of outdated laws that no longer reflect the social fabric of today. In its reimagining, we see a more assertive approach towards modern crimes and a conscious move to simplify complex legal language. This is a code that seeks to be accessible, relatable—a "people's penal code," so to speak.

In addressing cybercrime, a threat that didn't exist when the IPC was conceived, the Sanhita shows an acute awareness of the digital age. Our generation, so deeply intertwined with technology, can find relief in knowing that offenses like cyberstalking and digital harassment are finally recognized in their full severity. And by clarifying language, the law no longer feels like it belongs to an elite few; it belongs to the everyday citizen.

But there is a cautionary tale here, too. Simplification has its drawbacks—vague definitions and ambiguities could lead to a justice system where interpretation is inconsistent. Where does one draw the line between an accessible law and an oversimplified one that leaves room for misuse? The hope is that these laws become clear tools for justice, not open to personal interpretations that could lead to a dangerous imbalance.

### **The Bharatiya Nagarik Suraksha Sanhita: Speed and Sensitivity in Public Safety**

Imagine a system where cases don't drag on for decades, where victims don't grow old waiting for closure. The Bharatiya Nagarik Suraksha Sanhita, a reformative take on the Criminal Procedure Code (CrPC), tries to tackle this very issue by setting time-bound targets for investigations and trials. For a nation long fatigued by a lethargic justice system, this feels like a breath of fresh air. The promise of speedy justice is an answer to the cries of countless victims left unheard by endless delays.

It goes further by giving a voice to those silenced by crime. The emphasis on protecting victims' identities and ensuring financial support underlines a system trying to be more empathetic, a system that puts victims' dignity and healing first. We see the beginnings of a justice system that is humane, compassionate, and attentive to the very real traumas crime leaves behind.

Yet, these timelines create an immense pressure cooker of expectations. Law enforcement, already burdened, might be stretched beyond their means to deliver on these ambitious timelines. Are we creating a system where speed will overshadow quality, where justice will become mechanical rather than meaningful? The challenge here is to strike a delicate balance: how do we ensure the system remains swift without compromising the depth and thoroughness that justice demands?





## The Bharatiya Sakshya Adhiniyam: Bridging Tradition and Technology

If there's a single law that shows the pressing need for modernization, it's the Bharatiya Sakshya Adhiniyam, which replaces the Indian Evidence Act. This law acknowledges the power of digital evidence, recognizing how much our lives—and our crimes—have become intertwined with the digital world. Imagine an age where forensic evidence and digital trails could be the deciding factors in courtrooms. The Sakshya Adhiniyam reflects a forward-looking system, one that embraces technological evidence as the new standard in the pursuit of justice.

But as promising as digital evidence sounds, it comes with its own web of complexity. Digital footprints, though telling, are fragile, and privacy is easily compromised. In an era where data is everywhere, do we know who truly controls it? The Sakshya Adhiniyam hints at the power of information but raises deep concerns about individual privacy. How do we trust a system that requires the truth but could so easily encroach upon personal freedom?

And so, we find ourselves at the crux of a question that runs deeper than mere policy: how do we navigate the spaces where privacy, technology, and truth intersect? Will this law protect our rights, or will it expose them to misuse and surveillance? The answer may well shape the boundaries of freedom in our increasingly digital lives.

## The Larger Picture: An India Striving for Justice, Yet Tested by Complexity

The true impact of these laws will not come from the words on the page but from the pulse of society, from how law enforcers, judiciary, and citizens embrace or challenge these reforms. The new codes signal a turning point, a break from colonial constraints towards a system that hopes to resonate with the spirit of modern India. And yet, every revolution in the law brings with it a need for trust, for preparedness, and for a collective willingness to evolve.

The success of these laws will depend on more than just political will. They require the dedication of every judge, police officer, and citizen to learn, adapt, and remain vigilant. We must demand training, transparency, and, above all, a commitment to human rights. These reforms cannot stand alone; they must be accompanied by the structures and the soul of justice—a justice that, in its true essence, serves all people, impartially and compassionately. In the end, these reforms call upon us, the next generation, to remain aware, engaged, and proactive. As future professionals, thinkers, and leaders, it's our responsibility to hold the system accountable. Let us be the voice that ensures these laws don't merely promise justice but deliver it. Because when the ink dries and the reforms are set, it will be our vigilance, our sense of justice, that will determine if these laws live up to their noble intentions.



### Arnav Desai (Class of 2022)

An accomplished lawyer practicing in the High Court of Delhi and Supreme Court of India, with a BA.LLB and LL.M degree, dedicated to delivering exceptional legal representation and insightful counsel across on diverse legal matters.





## MODERNIZING JUSTICE: INDIA'S NEW CRIMINAL LAWS REPLACE COLONIAL-ERA CODES



In a significant step towards modernization, the Indian Parliament has recently voted to replace the 150-year old Indian Penal Code, 1860 the Criminal Procedure (Cr.PC), 1898 and the Evidence Act, 1872. The laws which date back to the British colonial era have shaped India's criminal justice system for decades, but have also been critiqued as outdated instruments in need of reform. This Bill, marks the beginning of a new phase of modernisation in its legal system — along with Bharatiya Nyaya Sanhita, Bharatiya Nagarik Suraksha Sanhita and Bharatiya Sakshya Adhiniyam.

For reasons, including the need to modernise outdated definitions of sexual violence, removing unnecessary procedural delays and enhancing a victim-centred approach within the criminal justice system. The Bharatiya Nyaya Sanhita seeks to replace the IPC with new provisions in line with modern societal and moral standards. One important focus among these new laws was a specific aim to address women's and children's crimes, with enhanced consequences and faster justice.

In the same way, the Bharatiya Nagarik Suraksha Sanhita — a take on of the Cr.PC — aims to speed up processes that lead to trial delays which can consume years with renewed focus on digitizing records and fast-tracking cases. On the other hand, the Bharatiya Sakshya Adhiniyam means to replace the Evidence Act with new adaptable standards of proof securing both digital and electronic forms of evidence fast becoming fundamental in legal proceedings.

These ambitious transformative laws aren't without their shortcomings. The sheer vastness of change will inevitably bring with it complications, particularly for the legal fraternity, including police, lawyers, and judges. Confusion is more likely to arise as it relates to the restructuring of provisions and changes of nomenclature, which require a lot of readaptation and retraining.

A pressing concern is whether these reforms can address the deep-rooted issue like procedural delays or systemic corruption. Will the changes streamline justice delivery, or will they add more layers of complexity? These questions underscore the critical importance of smooth implementation and robust oversight.

It is in this backdrop that the reforms are to be viewed, and despite all the reservations, this overhaul unmistakably indicates a determined effort towards a progressive criminal justice system, efficient, and centered upon the victim as well. As India enters this new legal space, the real test of these laws will not be their intent but their tangible impact on society. It aims to bring the promise of justice closer to its delivery, making the system accessible to every citizen.

Will it be a watershed for the criminal justice system in India, or another incremental step in its continued journey toward timely and equitable justice? Only time will tell — the country will judge the success of such reforms by their ability to meet their aspirations.

### MD. Arshad Alam (Class of 2022)

A first-generation lawyer practicing at the High Court, Calcutta, with expertise in Criminal & General Corporate Law with a B.A.LL.B from University of Calcutta and an MBL from the National Law School of India University (NLSIU). As the Founder and Partner of ARC Advocates & Solicitors, Kolkata, Arshad leads a team dedicated to delivering top-tier legal services.





# KEY INSIGHTS INTO IPC, Cr.PC AND EVIDENCE ACT



- **THE INDIAN PENAL CODE, 1890**

## **HISTORY AND ORIGIN OF THE IPC**

The historical background of the Indian Penal Code (IPC) dates back to the British East India Company's rule in India (1757-1858). Initially, Indian laws were characterized by diversity and complexity, with Hindu and Muslim laws governing different regions. Warren Hastings' administration (1772-1785) recognized the need for a unified legal code and introduced the plan for a comprehensive law. However, it was Thomas Babington Macaulay's Law Commission (1834-1835) that drafted the IPC, incorporating elements from British, French, and Roman law. The draft, submitted in 1837, underwent significant revisions before its enactment as Act XLV of 1860. Implemented in 1862, the IPC aimed to standardize criminal law across British India, simplify existing laws, and establish a codified system to maintain law and order.

## **OVERVIEW OF THE IPC**

The Indian Penal Code (IPC) is a comprehensive criminal code that came into force in 1862, during the British colonial rule in India. The IPC was drafted by Thomas Babington Macaulay's Law Commission in 1834-1835 and was enacted as Act XLV of 1860. The code aimed to unify and simplify the criminal law across British India, replacing the existing fragmented and diverse legal system.

The IPC is divided into 23 chapters and 511 sections, covering a wide range of offenses, including crimes against the state, public order, and individuals. The code provides a systematic framework for defining and punishing crimes, ensuring consistency and fairness in the application of justice. Key provisions include the definition of crimes, classification of offenses, and prescription of punishments.

The IPC has undergone several amendments and reforms since its enactment, reflecting changing social and economic conditions. Notable amendments include the Indian Criminal Law Amendment Act (1921), the Criminal Law (Amendment) Act (1983), and the Criminal Law (Amendment) Act (2013), which addressed issues such as rape, dowry deaths, and juvenile justice. Despite criticisms of being a colonial legacy, the IPC remains a cornerstone of Indian jurisprudence, influencing other Commonwealth countries' penal codes. The code continues to evolve through judicial interpretations and legislative reforms, addressing contemporary challenges and ensuring justice is delivered effectively.

Today, the IPC serves as a vital instrument for maintaining law and order, protecting individual rights, and promoting social justice in India. Its enduring relevance underscores the importance of a comprehensive and adaptable criminal code in a dynamic society.

## **HOW AND WHY DID THE IPC REACH HEIGHTS AND BECOME MASSIVELY POPULAR?**

The Indian Penal Code (IPC) has achieved monumental success since its enactment in 1860, cementing its position as a foundational pillar of Indian jurisprudence. The IPC unified the criminal law across British India, replacing the diverse and fragmented laws that previously existed. This unification provided a systematic framework for defining and punishing crimes, ensuring clarity and consistency in the application of justice.

The IPC's influence extends beyond India's borders, having shaped the penal codes of other Commonwealth countries. To keep pace with changing social and economic conditions, the code has undergone several amendments and reforms. These updates have enabled the IPC to remain relevant, addressing contemporary issues and ensuring justice is delivered effectively. Through numerous judicial interpretations, the IPC has significantly shaped Indian jurisprudence.





The IPC's massive popularity can be attributed to its clear and concise language, making it accessible to legal professionals and citizens alike. The code's simplicity and precision have ensured consistency and fairness in justice delivery. Additionally, the IPC's universal applicability, regardless of region, religion, or social status, has contributed to its widespread acceptance. Its historical significance as a legacy of British colonial rule, representing India's legal heritage, further solidifies its importance.

Effective administration by both the British and Indian governments has ensured the IPC's effectiveness. Proactive judicial interpretations have expanded the code's scope and application, while its inclusion in law school curricula has fostered a skilled legal profession. Media coverage and public discourse on IPC provisions have raised awareness about legal rights and responsibilities. The online availability of the IPC has facilitated easy access, enhancing its reach and impact.

Today, the IPC remains an indispensable instrument for maintaining law and order, protecting individual rights, and promoting social justice in India. Its enduring relevance underscores the importance of a comprehensive and adaptable criminal code in a dynamic society. As a cornerstone of Indian jurisprudence, the IPC continues to shape the country's legal landscape, ensuring justice for its citizens.

The Indian Penal Code (IPC) stands as a testament to the enduring legacy of British colonial rule in India. Enacted in 1860, it has evolved into a cornerstone of Indian jurisprudence, shaping the nation's legal landscape for over a century. The IPC's comprehensive framework, clear language, and adaptability have contributed to its widespread acceptance and influence. While the Bharatiya Nyaya Sanhita (BNS) is poised to replace the IPC, the latter's historical significance and foundational principles will continue to resonate in India's legal system. As India navigates the complexities of the 21st century, the IPC's legacy serves as a reminder of the importance of a robust and equitable criminal justice system.

#### • THE CODE OF CRIMINAL PROCEDURE, 1973

The purpose of the Code of Criminal Procedure, 1973 has been to provide machinery for prosecution, trial and punishment of offenders under the substantive criminal laws. i.e., Indian Penal Code and other laws passed by the State from time to time. It is the primary legislation regarding the procedural aspects of criminal law. The rules of procedure as provided by the Code of Criminal Procedure are meant to regulate the procedures in the courts. Further, the Code has been providing a detailed scheme for working of various functionaries of the state to help and assist the administration of Criminal Justice in India.

#### ORIGIN OF THE CODE OF CRIMINAL PROCEDURE IN INDIA

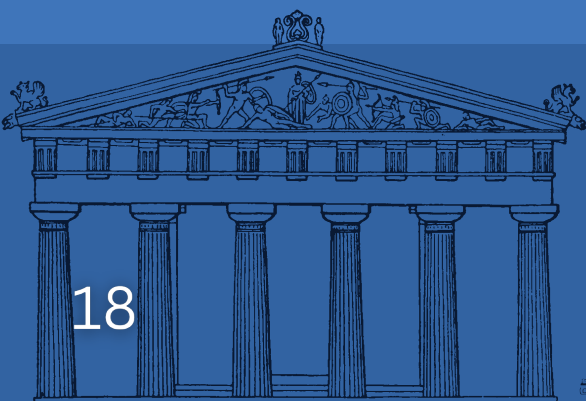
The Code of Criminal Procedure, 1973, traces its origins to British colonial India. Early influences stemmed from the Regulation of 1793 and the Bengal Regulation of 1804, which introduced Western legal concepts. The Charter Act of 1833 laid the groundwork for India's criminal justice system. The first comprehensive code, the Code of Criminal Procedure, 1861, was enacted, followed by the Code of Criminal Procedure, 1898.

Post-independence, the Law Commission of India, under the esteemed leadership of Justice V.K. Krishna Iyer, drafted the Code of Criminal Procedure, 1973. This modern code drew inspiration from The British Criminal Procedure Code, 1851, The Indian Penal Code, 1860, The Evidence Act, 1872, The Indian Constitution, 1950 and International human rights conventions.

The Code of Criminal Procedure, 1973 also reflects judicial interpretations and legislative amendments, striving to balance individual rights with societal needs. Influences from Anglo Saxon law, Islamic law, and customary practices are also evident.

#### BACKGROUND OF CODE OF CRIMINAL PROCEDURE, 1973 IN INDIA

The Code of Criminal Procedure, 1973, is a comprehensive legislative framework governing India's criminal justice system. The Law Commission of India, headed by Justice V.K. Krishna Iyer, drafted the Code intending to streamline criminal procedures, guaranteeing fairness, efficiency, and the protection of individual rights. The code comprises 37 chapters, encompassing topics such as investigation, trial, bail, arrest, and appeal.





The Code of Criminal Procedure, 1973 strikes a balance between state authority and individual liberties, providing safeguards against arbitrary detention and ensuring a fair trial. Key provisions include the right to bail, protection against self-incrimination, and the presumption of innocence.

The Code has played a pivotal role in shaping India's criminal justice system, influencing judicial decisions and informing law enforcement practices.

The Code of Criminal Procedure, 1973 strikes a delicate balance between individual liberties and societal interests, aiming to ensure a fair, efficient, and effective criminal justice system. By safeguarding rights and streamlining procedures, the Code has been promoting justice, maintains public order, and upholds the rule of law.



### **CHALLENGES FACED BY THE CODE OF CRIMINAL PROCEDURE, 1973**

While the Code of Criminal Procedure, 1973 laid the groundwork for India's criminal procedure, its limitations had become increasingly apparent in the face of modern challenges, such as follows :-

- **Technological Advancements and Digital Evidence**

The Code of Criminal Procedure, 1973 has been criticized for being outdated and not keeping up with technology and society changes. Also criticized is the Code's slow pace of trials, which can result in lengthy periods of pre-trial detention.

- **Misuse of power**

It is common for law enforcement officials to misuse the Code of Criminal Procedure, 1973 resulting in arbitrary arrests and prolonged detentions without trial. Many marginalized communities and lower castes are disproportionately targeted and punished under the Code of Criminal Procedure, 1973.

- **Rights of Victim and accused**

There are insufficient provisions in the Code of Criminal Procedure, 1973 for protecting victims' rights, which can result in re-victimization. There is no comprehensive mechanism for protecting the rights of the accused in the Code of Criminal Procedure, 1973, and the accused are often arbitrarily arrested, tortured, and imprisoned for long periods of time. The Code lacks alternative forms of punishment or rehabilitation, resulting in an over-reliance on imprisonment.

The Indian criminal justice system has long relied on the Code of Criminal Procedure, 1973, a framework derived from colonial-era laws. However, with the introduction of the Bharatiya Nagarik Suraksha Sanhita, 2023, a new era of criminal procedure is set to begin. It aims to overhaul and modernize the criminal procedure in India, addressing the existing challenges of procedural delays, low conviction rates, and inadequate adoption of technology.

While the Code of Criminal Procedure, 1973 laid a solid foundation for criminal procedure, it often fell short in addressing the evolving needs of the justice system. The Bharatiya Nagarik Suraksha Sanhita, 2023, with its focus on speed, efficiency, and protection of citizens, introduces significant reforms aimed at simplifying procedures, reducing trial durations, and enhancing the investigatory powers of the police.

The Bharatiya Nagarik Suraksha Sanhita, 2023, with its emphasis on speed, technology, and protection of rights, is designed to address these challenges head-on. As India implements this new code, the true impact of the Bharatiya Nagarik Suraksha Sanhita, 2023 will be seen in its ability to deliver justice more swiftly, fairly, and effectively, marking a new chapter in the country's legal history.

- **THE INDIAN EVIDENCE ACT, 1872**

The cornerstone of any trial stage of proceedings, irrespective of the alleged offense or dispute, is the evidentiary framework. Laws of evidence is applicable and extends over every facet of the trial stage, dictating the burden of proof and standard of proof, the admissibility of evidence, the format in which it is presented to the tribunal of fact and the reasons why it may be adduced, and its relevance. These laws ensure that the members of the tribunal are guided in their deliberations. By safeguarding against miscarriages of justice, the laws empower the court to exclude inadmissible or improperly obtained evidence, thereby upholding the integrity of the judicial process.







## ORIGIN OF LAW OF EVIDENCE IN INDIA

The early history of law of evidence in India can be traced back in Dharma Shastra as well as in Muslim and English systems of law and can be briefly stated as follows.

- **Hindu India**

It has always been recognised by the Dharma Shastra that the purpose of a trial is the desire to ascertain the truth. In Nyasa Sutra, Pramana is given as the means or instrument of cognition. The Buddhists describe Pramana as justified knowledge. According to them four kinds of proof were generally recognised. They are as follows :-

*Firstly, Lekhya (document)*

As per Hindu Law of Evidence, documentary evidence was favoured over oral testimony. Ancient Hindu law-givers, aware of the weaknesses of the documentary evidence, established stringent admissibility criteria. A document, to be considered valid, had to be clear, legally compliant, and free from alterations. The dharma shastra even delved into the examination and verification of disputed documents, including the comparison of handwriting. Certain ancient texts, as interpreted by Sir Srinivas Varadachariar, suggest a notarial system apparently to safeguard the genuineness of documents.

*Secondly, Sakshi (Witness)*

Ancient Hindu law, as elucidated by the late B. Gururaja Rao, imposed rigorous moral standards on civil witnesses, not permitting any one being picked up from streets. A witness was expected to be virtuous, trustworthy, and impartial. In case of criminal offenses, the ancient lawgivers relaxed these qualifications, considering the fact that such crimes often occurred in isolated settings, and could only be spoken to by witness who happened to be there, regardless of their social standing. Manu advocated for the examination of witnesses in a courtroom setting, with the judge actively questioning them. Hindu judicial practice emphasized the importance of observing witness behaviour to assess their credibility.

*Thirdly, Bhukti (Possession)*

Dr. Bidunath Sen Gupta summarises the evolution of ancient Hindu Law, regarding possession in ancient India, at an age beyond the dharma shastras, as that just possession in ancient India, at an age beyond the dharma shastras as that just possession constituted the sole title and that rule of prescription was a subsequent development.

*Finally, Divya (Ordeal)*

Divya tended to be limited to more or less exceptional cases of a serious nature, wherein the other normal modes of evidence would not be forthcoming, and instead of ordeals by fire or lethal poison or by drowning, forms of test which could successfully be undergone without miracle came to be substituted.

- **Muslim India**

Mohammedan lawgivers categorized evidence into oral and documentary forms. While duly executed documents and business records were admissible, oral evidences were often prioritized. The demeanour of the parties was closely scrutinized. Witnesses were examined and cross-examined separately to maintain objectivity.

Both Hindu and Muslim laws of evidence, had achieved a significant level of superiority, incorporating certain modern evidentiary concepts. These historical foundations are evident in the provisions of the current Bharatiya Sakshya Adhiniyam, 2023.

## BACKGROUND OF LAW OF EVIDENCE IN INDIA : NECESSITY and IMPORTANCE

The earliest legislation in laws of evidence in British India was Act X of 1835, which applied to all courts that adjudicated cases governed by the Governor-General-in-Council's enactments. Between 1835 and 1869, several subsequent Acts were passed to introduce reforms and improvements to the law of evidence. However, these efforts were fragmented, and various regions still adhered to customary laws.

This lack of a unified and systematic approach to evidence law necessitated a comprehensive codification. The Indian Evidence Act of 1872, emerged as a response to this need. Its primary objective was to consolidate the scattered common law rules of evidence into a coherent and practical code.





## CHALLENGES FACED BY THE INDIAN EVIDENCE ACT, OF 1872

The Indian Evidence Act, 1872, while foundational to the Indian legal system, faced several challenges, such as follows :-

- **Technological Advancements and Digital Evidence**

The Indian Evidence Act, which came into existence during the pre-digital era, faced significant challenges in adapting to the complexities of digital evidence. The landmark case of Anvar P.V. v. P.K. Basheer (2014), the Supreme Court ruled that for any electronic record to be admissible in court, it must be accompanied by a certificate as per Section 65B(4) of the Act, certifying the

authenticity of the record and the process used to produce it, highlighting the Act's limitations in this regard. The increasing reliance on electronic records in both civil and criminal proceedings necessitated a more flexible and adaptable approach to digital evidence.

- **Scientific and Forensic Evidence**

The absence of clear guidelines for the admissibility of DNA evidence, polygraph tests, and other scientific methods leads to inconsistencies in court rulings. In the case of Bhabani Prasad Jena v. Convenor Secretary, Orissa State Commission for Women, the Supreme Court emphasized that DNA testing could infringe on individual privacy and should not be routinely employed unless supported by strong prima facie evidence. This underscores the need for a balanced approach to the admissibility of DNA evidence, weighing its probative value against privacy considerations.

- **Challenges Regarding Judicial Interpretations**

Another challenge is the variability in judicial interpretations of the Act. Over time, courts have interpreted various sections of the Act differently, leading to inconsistencies in legal outcomes. Such inconsistencies can lead to unpredictability in legal proceedings. There had been growing call for more uniform guidelines and training for judges to ensure that interpretations align more closely with the intended spirit of the law and contemporary legal standards.

## PASSING OF THE NEW BILL

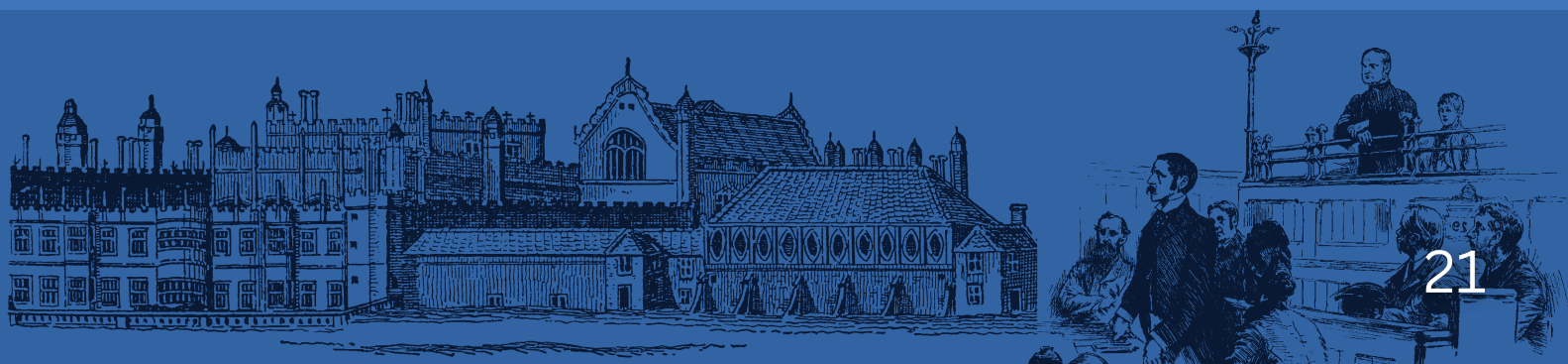
Recognizing the shortcomings of the Indian Evidence Act, 1872, The Bharatiya Sakshya Bill, 2023, was introduced.

The Bharatiya Sakshya Adhiniyam, 2023 adds a new schedule to the legislation which prescribes a detailed disclosure format of the certificate which was earlier governed by a mere affidavit and self-declaration, as to the genuineness of the contents of electronic records. The definition of secondary evidence has been expanded, and the Act plugs a loophole of the Evidence Act by accounting for written admissions as secondary evidence. It opts for uniform interpretation and application of similar standards to the same subject matters, and bringing experts of electronic evidence at par with other experts for determining relevant facts.

The Indian Evidence Act of 1872, crafted through extensive deliberation and adaptation, has long stood as a cornerstone of the Indian legal system. Its comprehensive framework has provided invaluable guidance to legal practitioners and law enforcement alike, enhancing its significance over the decades. However, this very framework has been facing various challenges that have significantly impacted its effectiveness and the delivery of justice.

The need for legislative reform of the Indian Evidence Act is driven by the evolving nature of technology, globalization, judicial interpretations, and legal practices. Updating the Act ensures it remains relevant, effective, and capable of addressing the complexities of modern legal scenarios, while also enhancing the fairness and accessibility of the justice system in India.

Compiled by  
Anushka Saha and  
Debabrati Roy Chowdhury









# REVAMPING JUSTICE: INDIA'S BOLD AMENDMENTS TO THREE KEY CRIMINAL LAWS

## INTRODUCTION

India's criminal justice system has been a persistent subject of debate and scrutiny, reflecting the complexities of a diverse nation with evolving social, political, and technological landscapes. The necessity for a comprehensive overhaul became imperative due to its outdated colonial provisions and cumbersome trial procedures, which often leads to delayed justice and contemporary challenges. In order to mitigate the circumstances, then Government of India amended the three major Criminal Codes in 2023, enacting the Bharatiya Nyaya Sanhita (BNS), the Bharatiya Nagarik Suraksha Sanhita (BNSS), and the Bharatiya Sakshya Adhiniyam (BSA). These amendments aim to modernize the judicial framework and deliver speedy justice, aligning with the global jurisprudence.

The Bharatiya Nyaya Sanhita, 2023 (BNS) replaces the substantive law of Indian Penal Code (IPC), whereas the Bharatiya Nagarik Suraksha Sanhita, 2023 (BNSS) replaces the procedural law of Code of Criminal Procedure (Cr.PC). The Bharatiya Sakshya Adhiniyam, 2023 (BSA) replaces the evidential jurisprudence of Indian Evidence Act. These enactments represent a significant shift towards an efficient, technology-driven and victim-centric approach to the criminal laws in India, aligning with the global standards.



## BACKGROUND OF CRIMINAL LAW IN INDIA

The Indian Penal Code (IPC), Criminal Procedure Code (CrPC), and the Indian Evidence Act were enacted during the British colonial period, reflecting the priorities of a colonial administration rather than the needs of a diverse and democratic society. The IPC was introduced in 1860, the CrPC in 1973, and the Evidence Act in 1872, all of which were designed to serve colonial interests and maintain control over the Indian populace. The procedural intricacies and archaic language of these laws have contributed to significant delays in the judicial process, resulting in a backlog of cases. This inefficiency undermines the accessibility and fairness of the criminal justice system.

On recognition of these shortcomings, the Government of India has initiated reforms aimed at modernizing the criminal justice system. Since 2014, over 1,500 outdated laws have been scrapped, and compliance burdens have been reduced significantly. This ongoing process reflects a commitment to eliminating colonial-era statutes that no longer serve the public interest. In *Garima Singh VS Pratima Singh*, the Court iterated that these amendments aim to make the criminal justice system more accessible and fair, addressing the procedural complexities that have historically hindered justice delivery. This includes a focus on ensuring that laws are written in clear, modern language and are adaptable to the evolving societal landscape.

## KEY AMENDMENTS

The amendments introduced in 2023 mark a significant shift in the approach to criminal law in India, with a focus on modernization, efficiency, and ensuring justice is delivered in a timely manner. Below are the key highlights of each of the new laws:

- **Bharatiya Nyaya Sanhita (BNS), 2023**

The BNS eliminates the redundant offenses that no longer serve a purpose in today's society. New provisions have been added to tackle emerging crimes such as mob lynching, organized crime, and expanded definitions of terrorism.

Offences are now classified into minor and serious categories, providing clarity for law enforcement and the judiciary. This Victim centric law emphasizes victim rights, ensuring access to compensation, counseling, and legal aid. It also provides strengthened provisions for addressing gender-based violence and sexual offences, promoting swift and strict action against offenders. It introduces Community-Based Rehabilitation Programs for minor offences to promote reformation rather than mere punishment. BNS imposes stronger penalties for serious crimes, reflecting the gravity of such offenses in society.



- **Bharatiya Nagarik Suraksha Sanhita (BNSS), 2023**

The BNSS replaces the Code of Criminal Procedure (CrPC), focusing on simplifying criminal procedures to make them more accessible and less time-consuming. It introduces a simplified structure for filing complaints, ensuring that citizens can easily navigate the criminal justice process without excessive bureaucratic hurdles. This reform also aims to make legal procedures more people-friendly by simplifying legal jargon and reducing procedural complexities.

One of the significant changes brought by the BNSS is the introduction of time-bound investigation and trial procedures. This aims to reduce the backlog of cases and expedite the delivery of justice, setting strict deadlines for various stages of investigation and prosecution. The law mandates that investigations into certain categories of offenses must be completed within a stipulated timeframe, ensuring accountability on the part of law enforcement agencies.

The BNSS also incorporates the digitization of procedures, from filing First Information Reports (FIRs) to the recording of evidence, thereby leveraging technology for faster resolution of criminal cases. Digital platforms are now being utilized to enable virtual hearings, electronic submissions, and real-time tracking of cases, which are all intended to increase efficiency and transparency in the justice delivery system. This digitization also extends to witness protection measures, allowing for secure testimony via video conferencing to ensure the safety of witnesses in sensitive cases.

- **Bharatiya Sakshya Adhiniyam (BSA), 2023**

The BSA replaces the Indian Evidence Act, adapting the rules of evidence to address contemporary legal issues and technological advancements. It focuses on the admissibility of modern forms of evidence, such as electronic communications, video recordings, and biometric data, ensuring that the justice system is better equipped to handle technological advancements and the complexities of digital crime.

It recognizes digital evidence and electronic records, thereby providing a legal framework for the admissibility of such evidence in trials. The new provisions address the need for authenticity and integrity in digital evidence, requiring proper certification and verification processes to ensure that the evidence is not tampered with or manipulated. This is especially relevant in cases involving cybercrime and financial fraud, where digital evidence often plays a pivotal role.

The BSA places a strong emphasis on fairness and transparency, ensuring that evidence is admissible based on clear and consistent standards. It introduces measures to prevent the misuse of evidence and protect the rights of the accused, including safeguards against unlawful search and seizure of electronic devices. Clear criteria for the admissibility of various types of evidence, including hearsay and expert testimony has been effected. Also, introduction of presumptions regarding the authenticity of electronic records are introduced to reduce the burden on parties to prove their validity. The law also emphasizes the importance of chain of custody in evidence handling, ensuring that every step in the collection, storage, and presentation of evidence is properly documented to maintain its credibility and reliability in court. Further, judges are granted broader discretion in evaluating the relevance and admissibility of evidence, allowing for more context-sensitive decisions.

#### THE IMPACT OF THE AMENDMENTS

- **Speedy Justice**

The amendments introduce strict timelines for investigations and trials to address case pendency and ensure prompt justice. By setting fixed deadlines, they aim to reduce delays, provide relief to victims and defendants, and enhance accountability within law enforcement and the judiciary.



Summary trials and alternative dispute resolution (ADR) mechanisms are emphasized to decongest the judiciary and expedite minor cases. While summary trials streamline processes for less severe offenses, ADR methods like mediation and arbitration resolve disputes extrajudicially, offering a faster, cost-effective, and amicable solution. These reforms aim to reduce the burden on courts and encourage non-adversarial resolutions.

The amendments also incorporate plea bargaining, allowing accused individuals to plead guilty to lesser charges in exchange for reduced sentences. This approach not only expedites the judicial process but also promotes fairness by balancing efficiency with opportunities for resolution, making the judicial system more responsive.



- **Technological Integration**

The amendments emphasize to integrate the digital systems with the criminal justice processes, including filing FIRs, recording evidence, and judicial decision-making. This digitization streamline enhances transparency and reduces delays in delivering the verdict. E-courts and virtual hearings have further expanded access to justice, particularly for remote areas, making the system more inclusive and efficient.

Provisions addressing cybercrimes such as digital harassment, identity theft, and online fraud ensure the systematic collection and preservation of electronic evidence. By equipping law enforcement with digital forensic tools and training, the amendments enhance the system's ability to tackle technologically sophisticated offenses, adapting to the challenges of the digital age.

Witness protection programs have been digitalized to allow secure video testimonies, reducing intimidation risks for witnesses in sensitive cases. Additionally, technology is used to monitor parolees and individuals on probation through electronic devices, ensuring compliance with judicial orders and promoting public safety, while also deterring future offenses.

- **Focus on Gender Justice and Vulnerable Communities**

These amendments strengthen legal safeguards for women, children, and marginalized communities, aiming to create a victim-centric judicial process. Specialized mechanisms for reporting offences and providing psychological and legal support to victims ensure equitable administration of justice. Fast-track courts for sexual offences and crimes against vulnerable groups prioritize timely resolutions, reducing the trauma of prolonged legal battles.

Expanded definitions of offences such as sexual harassment, domestic violence, and gender-based violence, along with harsher penalties, empower victims to seek redress. These amendments also address diverse forms of abuse, including psychological and economic coercion, and mandate support services like shelters and crisis centres to provide holistic assistance to victims.



Gender-sensitivity training for law enforcement and judicial officers aim to eliminate biases and stereotypes to ensure empathetic case handling. Child-friendly procedures, such as mandatory presence of psychologists during interviews and simulating safe spaces for collecting testimonies minimise the trauma for minors for interacting with the legal system.

The amendments also emphasize community involvement through policing initiatives, awareness campaigns, and NGO partnerships to protect vulnerable groups. This collaborative approach fosters a supportive societal environment, recognizing that addressing vulnerability requires both systemic reform and community engagement.

### CRITICISMS AND CONCERNS

#### A. Possible Overreach

The expanded powers granted to police under the amendments raise concerns about potential abuse and violations of civil liberties. Without strong oversight mechanisms, such authority could lead to misconduct and erode public trust in law enforcement. Independent oversight bodies and transparent review systems are essential to ensure accountability and prevent misuse. While the amendments aim to enhance national security, they must not compromise individual freedoms.

Marginalized groups are particularly vulnerable to the abuse of power and expanded police authority could exacerbate these risks. Comprehensive training on bias, discrimination, and community engagement is needed to promote accountability and ensure equitable implementation, fostering stronger trust between law enforcement and communities.

#### B. Challenges in Implementation

i) **Infrastructure and Training Challenges:** The effective implementation of these amendments requires significant investment in technology and training. Digitization of the justice system must address disparities in infrastructure between urban and rural areas to ensure accessibility. Comprehensive training for law enforcement, judicial staff, and other stakeholders is essential, alongside the creation of user-friendly systems to ease the transition to digital processes.

ii) **Resource Constraints on Judiciary:** Meeting the strict timelines of the amendments necessitates addressing the overburdened judiciary through recruitment of more judges, support staff, and expansion of court infrastructure. Technological upgrades, such as case management software and specialized benches, can reduce administrative burdens and improve efficiency in handling cases.



iii) Challenges with Digital Evidence: Safeguarding the integrity of digital evidence requires robust protocols and cybersecurity measures. Training for law enforcement in evidence collection and preservation is vital, alongside clear guidelines to balance investigative powers with privacy rights.

iv) Public Awareness and Education: Public understanding of the amendments is critical to their success. Awareness campaigns and community engagement should be introduced to educate the citizens, especially marginalized groups, about their rights and responsibilities under the new laws.

v) Continuous Evaluation: Establishing oversight mechanisms and review committees ensures the reforms are effective and adaptable. Stakeholder involvement in monitoring and feedback processes will help address and align the amendments with the societal needs, ensuring an equitable and efficient justice system.

#### COMPARATIVE PERSPECTIVE

The Bharatiya Nyaya Sanhita (BNS) 2023 modernizes the Indian Penal Code by adopting victim-centric measures and stricter penalties for heinous crimes to coordinate with the UK's Criminal Justice Act and the US criminal code. It emphasizes combating terrorism, cybercrimes, and organized crime, aligning with international norms such as the USA PATRIOT Act. Simplified language and provisions to address emerging crimes reflect global best practices, making the law more accessible and responsive to contemporary challenges.

The Bharatiya Sakshya Adhiniyam (BSA) 2023 updates India's evidentiary framework, incorporating advancements like the recognition of digital evidence, which is akin to the Singapore Evidence Act and the EU's General Data Protection Regulation (GDPR) standards. It strengthens witness protection measures, drawing inspiration from the US Federal Witness Protection Program, ensuring fair trials and safeguarding witnesses. By prioritizing reliability and modernizing rules of admissibility, the BSA aligns India's evidentiary system with international standards.

The Bharatiya Nagarik Suraksha Sanhita (BNSS) 2023 enhances procedural transparency and accountability, paralleling the UK's Police and Criminal Evidence Act (PACE) and the US Federal Rules of Criminal Procedure. It introduces time-bound trials and citizen-centric policing, inspired by efficient justice systems in Europe and Scandinavia. These provisions aim to reduce delays, ensure fairness, and foster public trust, reflecting best practices like participatory legal frameworks seen in Switzerland. Collectively, these reforms strengthen India's criminal justice system by integrating global innovations while addressing local needs.



#### CONCLUSION

The transition from India's colonial-era criminal laws to the Bharatiya Nyaya Sanhita (BNS) 2023, Bharatiya Sakshya Adhiniyam (BSA) 2023, and Bharatiya Nagarik Suraksha Sanhita (BNSS) 2023 marks a pivotal moment in the Indian legal landscape. These amendments signify a progressive shift towards addressing contemporary challenges such as cybercrime, terrorism, and gender-based violence while simplifying legal provisions to make them more victim-centric and accessible. By incorporating global best practices and adapting to the evolving societal needs, these laws lay the foundation for a more modern and robust legal framework.

However, the success of these reforms depends heavily on overcoming challenges like the readiness of the judicial and law enforcement systems, widespread awareness among citizens, and ensuring uniform implementation across India's diverse socio-economic landscape. Building capacity, leveraging technology, and maintaining judicial integrity will be crucial in translating the legislative intent into actionable outcomes. These amendments inspire hope for an inclusive, fair, and efficient criminal justice system, one that not only ensures timely justice but also aligns with India's democratic ethos. With sustained efforts in implementation and evaluation, these reforms have the potential to transform India's legal framework into a beacon of justice, accessibility, and accountability.





# SHATADEEP GHOSH

**Criminal law is the body of law that relates to crime. It prescribes conduct perceived as threatening, harmful, or otherwise endangering to the property, health, safety, and welfare of people inclusive of one's self. Most criminal laws are established by statute, which is to say that the laws are enacted by a legislature. Criminal law includes the punishment and rehabilitation of people who violate such laws. Criminal law varies according to jurisdiction, and differs from civil law, where emphasis is more on dispute resolution and victim compensation, rather than on punishment or rehabilitation.**

**The Bharatiya Nayaya Sanhita, Bharatiya Nagarik Suraksha Sanhita and Bharatiya Sakshya Adhiniyam are India's new criminal laws which came into effect on July, 2024 in order to modernize the criminal justice system of the nation.**

**These laws are intended to prioritize the rights of victims, especially women, children and marginalized communities, ensure speedy justice for all, use technology to combat emerging challenges, increase focus on national security and introduce electronic evidence reviews.**

**The Bharatiya Nayaya Sanghita is India's new criminal code, which will replace the Indian Penal Code. It is going to be the official criminal code of India, with effect from July 2024. It includes 358 sections in 20 chapters.**

**The Bharatiya Nagarik Suraksha Sanhita is the main legislation on procedure for admission of substantive criminal law in India, since July, 2024. It has total 531 sections in 39 chapters. The BNSS consolidates and simplifies the law by repealing and amending a number of provisions of CrPc.**

**The Bharatiya Sakshya Adhiniyam is an act of the Parliament of India modernizes the Indian legal framework for the admissibility and evaluation of evidence in judicial proceedings. It incorporates contemporary technological advancements, recognizing the significance of electronic and digital evidence. It aligns with current legal standards to address the complexities of the modern judicial scenario. The act also seeks to streamline the legal process to ensure fairness and efficiency.**



# SAMADRITA DEB



On July 1, 2024, India took the historic step of criminal justice reform as it not only replaced three colonial laws with a new set, but in actuality three major colonial laws were consigned to the dustbin: the Indian Penal Code, the Code of Criminal Procedure, and Indian Evidence Act were reformed by Bharatiya Nyaya Sanhita, Bharatiya Nagarik Suraksha Sanhita, and Bharatiya Sakshya Adhiniyam respectively. The move to update these laws is a belated gesture towards this legacy; these laws were an instrument of colonial administration, with excesses firmly in favor of maintaining order and penal control. The new laws are aimed at justice, equity, and efficiency. Contemporary practice and technologies shape this update into the perceived legal needs of Indian society today. The BNS abolishes the IPC and recreates and fine-tunes criminal offenses. It reduces the number of sections from 511 to 358 and introduces newly defined crimes such as deceit based on promises of marriage, employment, or identity fraud. violence by mob lynching and racially inspired violence. All these are now explicitly penalized with severe punishments that may include life imprisonment or death sentence. the BNSS takes over from the Cr.PC, enhancing procedural law with 531 sections. Notable revisions include a victim-oriented framework that accelerates trial processes. Provisions also extend police custody to 90 days and introduce trials in absentia, allowing cases to proceed

without the presence of the accused. The inclusion of “Zero FIR’s” permits citizens to lodge complaints anywhere, expediting access to justice.

Replacing the Evidence Act, BSA includes electronic evidence in legal procedures, thus establishing electronic messages and information as evidence. This is essential in a time of relatively large innovations wherein business and other transactions and interactions are made digitally for all-encompassing recording and to minimize dependence on paper.

New laws require videography for search and seizure processes, and the collection of forensic teams at crime scenes for serious crimes. Technological inclusions will make the processes more transparent and free of false accusations. processes digitizing from the filing of fir to judgments also reduce procedural delays, thereby enhancing efficiency.

The new laws have attracted controversy surrounding the complexities of their implementation and balancing tough measures with civil liberties. the changes in the duration of custody and the structure of trials under this new framework have sparked much debate over possible impacts on rights and due process. In short, India’s legislative reform with the BNS, BNSS, and BSA is an ambitious attempt to modernize its criminal justice system. Along with embracing victim-centric policies and assuming that the system would be closer to what contemporary needs and public trust demands.





# RISHITA DAS

The Indian Penal Code (IPC), Criminal Procedure Code (CrPC), and the Evidence Act are the cornerstones of India's criminal justice system for over one-hundred years. Enacted during the British colonial era, these laws were designed to maintain law and order in a vastly different India and these laws have undergone several amendments to keep pace with changing society. The rise of new crimes like cybercrime, terrorism, and human trafficking has exposed the inadequacies of these laws. Inadequate punishments and insufficient protection have led to criticism and calls for reform.

The Bharatiya Nyaya Sanhita, or BNS, is a breath of fresh air for India's justice system. The BNS is all about simplicity, clarity, and justice that is swift and fair. It is a law that is meant to protect the vulnerable, punish the guilty, and bring peace to those who have been wronged. It is a new beginning for India's justice system, and a big step towards a safer society for all.

The new criminal laws are a significant step forward in India's journey towards justice. For too long, our laws have been outdated and ineffective. But now, we have chance to create a better future. The new laws aim to change this by providing clearer definition of crimes, harsher punishments for serious offences, and better protection for the victim.

One of the most significant changes brought about by the new laws is the increased focus on victim protection. Victims of crime have been marginalized and ignored for far too long. The new laws aim to change this by providing victims with greater support and protection throughout the investigation and trial process.

The new laws also aim to streamline investigation and trial processes, making it easier and faster to bring criminals to justice. This includes the use of digital evidence, forensic science, and other modern tools to investigate. harsher punishments for serious crimes : The new laws also provide for harsher punishments for serious crimes like rape, murder, and terrorism. This embraces a shift, as these crimes have a devastating impact on individuals, families, and communities.

The recent replacement of the IPC, Cr.PC, and the Evidence Act by new criminal laws marks a significant milestone in India's criminal justice system. The new laws aim to look at the emerging issues and concerns. This is a pivotal step towards creating a more efficient and effective criminal justice system in India. The new laws promise to bring India's criminal justice system to a new chapter, with a focus on victim protection, investigation and trial processes, and harsher punishments for serious crime.



# RIFAA JAHAN

The Indian Parliament has substituted existing criminal laws by three new criminal laws namely the “Bharatiya Nyaya Sanhita”, the “Bharatiya Nagarik Suraksha Sanhita” and the “Bharatiya Sakshya Adhiniyam” and has replaced the Indian Penal Code (IPC), the Code of Criminal Procedure (CrPC), and the Indian Evidence Act respectively, effective from 1st July 2024.

The three new criminal laws aim to consolidate the traditional provisions and procedures, making them more concise , contemporary , efficient and relevant.

They aim to replace colonial- era laws with a justice focused approach, integrating technological advancements in police investigation and court procedures.

The new criminal law include the following salient provisions :-

1. Criminal case judgements must be delivered within 45 days after the trial ends.
2. Statements from rape victims will be recorded by a female police officer in the presence of the victim's guardian or relative. Medical reports must be completed within seven days.
3. A new chapter in the law addresses crimes against women and children. Buying or selling a child is classified as a heinous crime, punishable by severe penalties. Gangrape of a minor can result in a death sentence or life imprisonment.
4. The law includes punishments for cases where women are abandoned after being misled by false promises of marriage.
5. Victims of crimes against women are entitled to receive regular updates on their cases within 90 days. All hospitals are required to provide free first-aid or medical treatment to victims of crimes against women and children.
6. Both the accused and the victim are entitled to receive copies of the FIR, police report, charge sheet, statements, confessions, and other documents within 14 days. Courts are allowed a maximum of two adjournments to avoid unnecessary delays in case hearings.
7. Incidents can now be reported via electronic communication, eliminating the need to visit a police station. The introduction of Zero FIR allows individuals to file a First Information Report at any police station, regardless of jurisdiction.

8. Arrested person has the right to inform a person of their choice about their situation, so that he can receive immediate support. Arrest details will be prominently displayed in police stations and district headquarters for easy access by families and friends.

9. It is now mandatory for forensic experts to visit crime scenes for serious offences and collect evidence.

10. The definition of “gender” now includes transgender people. For certain offences against women, victim statements should be recorded by a woman magistrate when possible. If unavailable, a male magistrate must record the statement in the presence of a woman. Statements related to rape must be recorded through audio-video means.





However, the New Criminal Laws suffer from the following drawbacks:-

- Vagueness in Definitions.
- Poorly defined community service.
- Vague organized crime provisions.
- Parallel Provisions.
- Discretionary power to law enforcement.
- Increase in Police powers.
- Removal of Legal Aid.
- Misuse of electronic evidence.

However, some changes are still required or needed in Criminal Law in India , that may include :-

Comprehensive cyber crime provisions, Data protection offenses, Virtual world crimes, Gender neutrality , Addressing emerging financial crimes, Cyber crime hub provisions, Artificial Intelligence (AI) related offenses and while these changes are necessary, it must be carefully considered and implemented. All the three laws are a testament to India's commitment to reform. The success of these reforms will depend on careful implementation, clear guidelines , and continuous monitoring to ensure that the law serves its intended purpose without unintended consequences.



# CHANDRANI SARKAR

In a landmark move that could redefine the landscape of Indian criminal law, the government has replaced the Indian Penal Code (IPC), Criminal Procedure Code (Cr.PC), and the Evidence Act with a set of new laws designed to modernize and decolonize the criminal justice system. The need for reform was accentuated by the rising incidence of crimes, particularly against women, children, and marginalized communities. For over a century, these Acts have stood as foundational pillars of Indian criminal law, shaped during an era when the socio-political landscape was vastly different. These laws have served the nation well, but they have also faced criticism for being outdated, and often ineffective in dealing with modern challenges. The new laws, introduced as part of a comprehensive legal reform initiative, aim to address these shortcomings by incorporating flexibility, efficiency, and fairness into the judicial process.

One of the most notable aspects of the new criminal laws is their alignment with international best practices. The legislative framework is designed to enhance the rights of the accused while simultaneously safeguarding the rights of victims.

By emphasizing restorative justice, these laws strive to create a balance that seeks to rehabilitate offenders and reintegrate them into society, rather than merely punishing them.

Another important change introduced under this new system is the acceleration of the judicial process. The new criminal procedural guidelines aim to reduce the excessive adjournments and delays that have long plagued the Indian justice system. By putting in order the court procedures and introducing strict timelines for trials, the new laws aspire to advance the justice delivery, ensuring that victims can receive timely closure and that the accused can quickly clear their names if unjustly charged. In this modern era technology has a great significance in our lives.

In an era dominated by digital communication, provisions have been made to include evidence collected through modern methods, such as digital forensics and electronic records. This not only increases the reliability of evidence but also reflects a forward-thinking approach that acknowledges the realities of contemporary life. The introduction of these new laws has sparked an intense debate among lawmakers, legal experts, and the public at large. Proponents argue that this is a necessary evolution of the legal framework, creating a system that is more related to the realities of the 21st century.

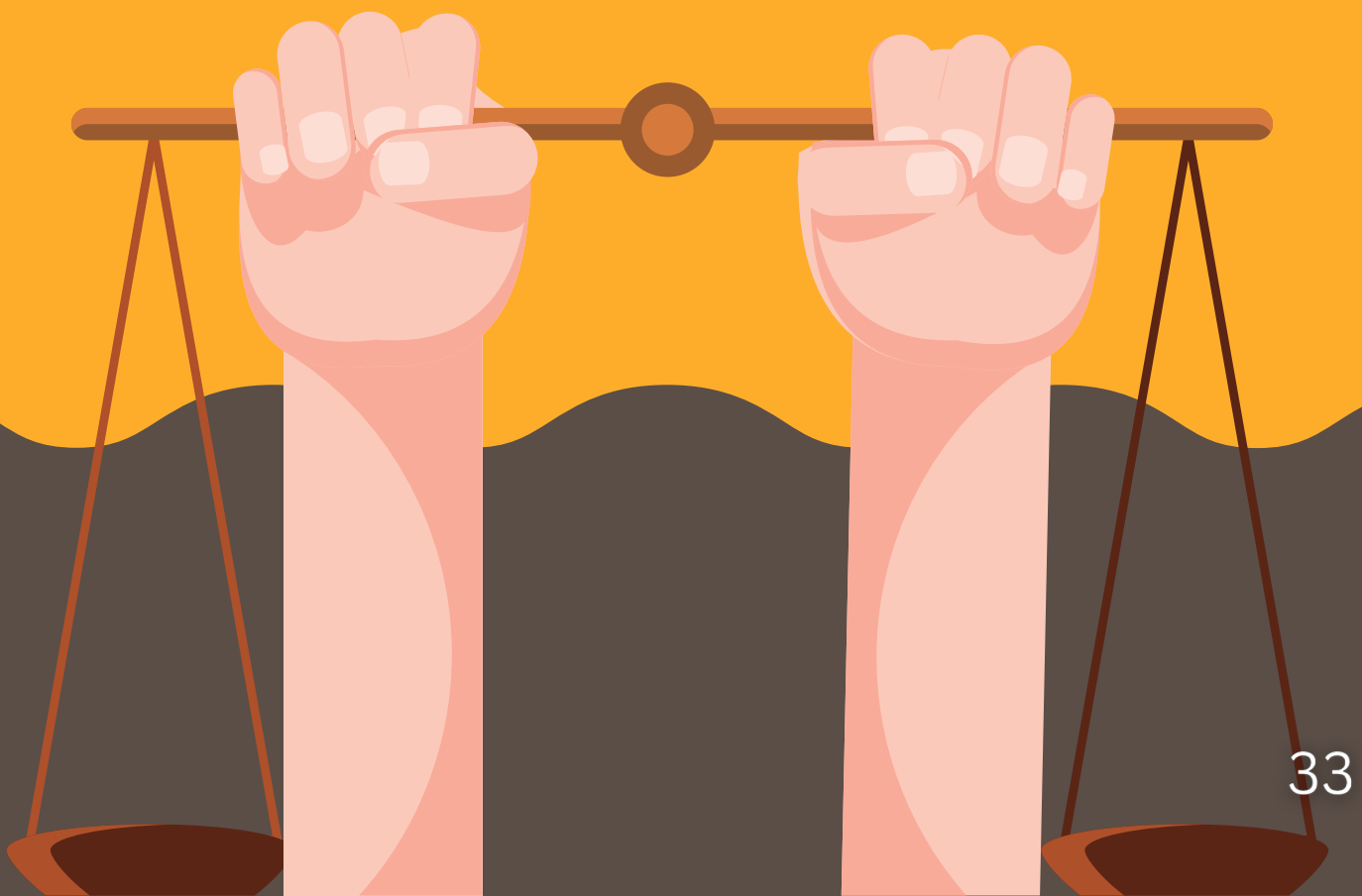
However, critics have pointed out the caution against the rapid implementation of such substantial changes, voicing concerns about the potential for misuse and the adequacy of training for





law enforcement personnel and legal practitioners regarding the new laws. Continuous education and adaptation will be essential as legal professionals navigate this new terrain. Additionally, public awareness campaigns are vital to ensure that citizens understand their rights and responsibilities.

The replacement of the IPC [The Bharatiya Nyaya Sanhita (BNS)], Cr.PC [Bharatiya Nagarik Suraksha Sanhita (BNSS)] and Evidence Act [Bharatiya Sakshya Adhinyam (BSA)] is a landmark reform aimed at bracing India's criminal justice system. The legislation addresses urgent concerns, incorporates modern principles, and prioritizes victim welfare. Effective implementation and capacity building will be critical in ensuring the success of these reforms. As India strives to achieve a more just and equitable society, these new laws will play an important role in shaping the nation's criminal justice landscape.



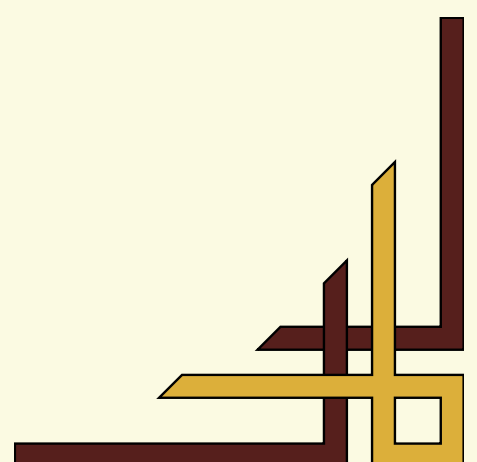


# FATEMA KHATUN

India, with its rich tapestry of history and diverse legal structures, has long relied on the Indian Penal Code (IPC), the Code of Criminal Procedure (CrPC), and the Indian Evidence Act as the cornerstones of its criminal justice system. These century-old laws, drafted during the British Raj, have governed the land since 1860, 1973, and 1872 respectively. However, as society evolves, so must the framework that governs it. In a historic move, the Indian government has introduced new legislation to replace this trio, aiming to modernize criminal law in the country.

Over time, India has witnessed significant sociopolitical changes, technological advancements, and shifts in societal behaviors that demanded an alteration of the existing system of judicial administration. The new criminal laws are designed to address these challenges, embodying the spirit of a progressive legal system.

Despite the promising changes, in the new laws, their implementation will definitely prove to be challenging. Successful transition depends on various allied factors like availability of effective infrastructure, implementation of comprehensive training modules, widespread generation of public awareness and installation of systematic procedures of monitoring and review. While the new laws promise to enhance efficiency, prioritize victims, and uphold human rights, the real test will lie in their successful and effective implementation and this in turn will help to create an equitable judicial administration, beneficial to all concerned.





# DIYA ACHARJEE

The Indian Penal Code (IPC) 1860, Code of Criminal Procedure (Cr.PC) 1973, and Indian Evidence Act 1872 were key British-era laws in the Indian judicial system. While the IPC defined crimes and punishments, the Cr.PC outlined criminal case procedures, and the Evidence Act set rules on admissible proof in court. In 2023, these laws were replaced to modernize the system. The IPC was replaced by the Bharatiya Nyaya Sanhita (BNS), the Cr.PC by the Bharatiya Nagarik Suraksha Sanhita (BNSS), and the Evidence Act by the Bharatiya Sakshya Adhiniyam (BSA).

The IPC, established in 1860, defined crimes and their punishments. It was implemented in 1862 in the British Presidencies, based on the law of England, the Napoleonic Code, and the Louisiana Civil Code of 1825. It was replaced by the Bharatiya Nyaya Sanhita (BNS) in December 2023, effective from July 1, 2024.

The Cr.PC outlines how criminal cases are handled from investigation to trial and appeals. First introduced by the British in 1861, it was later enacted in 1973. It ensured a fair and standardized approach to criminal cases across India. The BNSS replaces the CrPC to modernize and expedite criminal justice procedures.

The Indian Evidence Act of 1872 explained acceptable evidence types and presentation in Indian courts, ensuring fair and reliable court cases. It standardized evidence use in courts, replacing varied regional practices.

The introduction of new criminal laws in India replaces long-standing laws with updated codes aimed at modernizing the justice system. The Bharatiya Nyaya Sanhita (BNS), Bharatiya Nagarik Suraksha Sanhita (BNSS), and Bharatiya Sakshya Bill (BSB) replace the IPC, Cr.PC, and Evidence Act, respectively. These laws aim to make India's criminal justice system more efficient and transparent.

However, the new laws have criticism for their limitations in addressing certain significant arenas of the judicial administration.

- Rape laws: Lack of provisions for male or transgender victims.
- Human trafficking: Increased sentence for not reporting to police seen as disproportionate.
- Terrorism: No independent review mechanism for prima facie cases.
- Handcuffing: Potentially reverses the Supreme Court's stance on its unconstitutionality.
- Expanded police custody: Allows holding accused for up to 90 days, versus 15 days previously allowed.



# CHANDRANI SARKAR



Sec 8 replaced with Section 2(10). Gender : Word “transgender” is added apart from genders of “male” and “female”.

Section 4 replaced with section 1 (5) Short title, commencement and application- Extension of Code to extra- territorial offences. This section is included as a subsection in BNS sans heading. In the illustration, “Uganda” has been replaced with “any place outside India”.

Section 304 of the BNS provides, for the first time, snatching as an offence distinct from theft. Snatching is a subset of theft wherein movable property is taken by force or quickness of action from a person. The maximum punishment for snatching has also been set at three years instead of seven years for theft.

Grievous hurt caused by a mob of five or more people has also been punished separately under the provision of Section 117(4) of the BNS, solidifying the resolve against mob justice.

Section 103 of the BNS, any murder committed by a group of five or more people, specifically based on conditions like religion, caste or community, place of birth, personal belief, etc. is now distinctly punishable with death or life imprisonment with a fine, similar with how a murder is punished.

Section 173 permits Electronic mode for all trials, inquiries, and proceedings.

Section 173(1) introduced the Zero FIR , mandating police stations to register the FIR regardless of jurisdiction.

Section 349 extends the power of Magistrates to order specimen signatures, handwriting, fingerprints, and voice samples, even from someone not arrested.

Section 176 of BNSS requires forensic investigation for crimes punishable with 7 years imprisonment or more. Appointed experts will visit, gather, and document the process.

IPC to BNS – (old IPC -511 section & BNS -358 section)  
Cr.PC to BNSS – (old Cr.PC- 484 & BNSS-531 section)





**Evidence Act to BSA – (old Evidence Act – 167 section & BSA- 170 section)**

- **Section 57 recognizes electronic record as primary evidence. It allows electronic presentation of oral evidence by enabling remote testimony and ensuring that electronic records will have the same legal effect as paper records.**
- **Section 24 expands the concept of joint trial which states that cases involving multiple people in which the accused flees or fails to respond to an arrest warrant are treated as joint trial.**
- **Section 58 expands the list of secondary documents which include: Oral and written admissions. The testimony of a person who has examined the document and is skilled in the examination of documents.**



# ANAM MANTASHA

The Centre has implemented new criminal laws with effect from July, 2024. As soon as it came into light the news created an upheaval across the nation and abroad. The Indian judicial system has undergone a significant transformation with the introduction of the new laws. The Bharatiya Nyaya Sanhita (BNS), Bharatiya Nagarik Suraksha Sanhita (BNSS), and Bharatiya Sakshya Adhiniyam (BSA) have replaced the Indian Penal Code (IPC), Code of Criminal Procedure (Cr.PC), and Indian Evidence Act, respectively.

The Indian Penal Code (IPC), 1860, Code of Criminal Procedure (Cr.PC), 1973, and Evidence Act, 1872, were enacted by the British to establish a uniform criminal justice system in India. Drafted by Thomas Babington Macaulay, the IPC and Evidence Act were established, while Cr.PC replaced the 1898 Code, aiming to maintain law and order, and ensure justice. However with changing socio political dynamics and technological advancement the need for reform had become mandatory.

After decades of debate, the new criminal law reforms replaced these archaic codes, introducing the Indian Criminal Code (ICC), revised Cr.PC, and Evidence (Amendment) Act, 2023, to smooth justice delivery, enhance victim protection, and align with existing needs.







1. Indian criminal code (ICC): Replaces the Indian Penal Code (IPC), 1860.
  - Expanded definitions of rape, cybercrimes, and terrorism.
  - Stricter penalties for crimes against women, children, and vulnerable sections.
  - New offenses: cyber terrorism, online harassment, child pornography.
  - Modified provisions: abetment, conspiracy, criminal breach of trust.
2. Code of Criminal Procedure (Amendment) act: Revises the Code of Criminal Procedure (Cr.PC), 1973.
  - Time-bound trials (completion within 2 years).
  - Enhanced victim protection and support.
  - Electronic evidence and video conferencing.
3. Evidence (Amendment) Act: Updates the Evidence Act, 1872.
  - Applicability of digital evidence.
  - Witness protection and anonymity.
  - Expert testimony via video conferencing.

India's new criminal law marks a pivotal moment in judicial history, transforming the system of justice delivery to be more efficient, effective, and compassionate. Collaboration among stakeholders is crucial for success. This reform paves the way for a more just, inclusive, and harmonious society, reflecting India's commitment to progress, reform, and human rights, creating a safer and more equitable society.



# DEBABRATI ROY CHOWDHURY

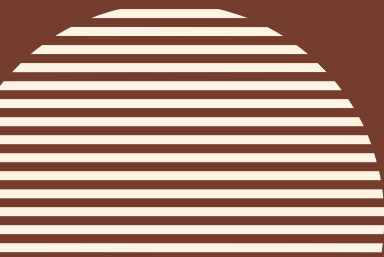


The Bharatiya Nyay Sanhita (BNS) of 2023, enacted on December 25, 2023, replaced the Indian Penal Code (IPC) of 1860, marking a significant overhaul of India's criminal justice system. However, the enactment process raised concerns, as it occurred during the suspension of 144 opposition members, with minimal parliamentary debate and limited consideration of dissenting views in the standing committee. This has led to questions regarding the legitimacy and authority of the new legislation.

The BNS has introduced significant changes to the criminal justice system, including new provisions and amendments to existing laws. The BNS consists of 20 chapters, with a focus on offenses against women and children. The law has streamlined the criminal justice system by consolidating offenses and reducing the number of sections from 511 to 358. Fines have been increased for various offenses, and terms of imprisonment have been enhanced for 33 offenses.

Some of the most important and noteworthy aspects, as well as the infractions, are highlighted below:

- **Changes in Trafficking:** Changes have been introduced in trafficking laws, including increased penalties for trafficking in children. Section 95 of the BNS provides for punishment for hiring, employing, or engaging a child to commit an offense. Section 366A of IPC has been repealed and replaced with Section 96 of BNS, which deals with procurement of any child below the age of 18 years.
- **Mob Lynching:** Section 103(1) of BNS provides for punishment for killing in a mob. Section 103(2) provides for criminal liability and punishment for killing in a mob when a group of five or more persons acting in concert commits murder on grounds such as race, caste, community, sex, place of birth, language, personal belief or any other ground.
- **Causation by Negligence:** Section 106 of BNS provides for punishment for causing death by rash or negligent act not amounting to culpable homicide. The section also provides for punishment for causing death by rash and negligent driving of a vehicle.
- **Organized Crime:** Section 111 of BNS provides for punishment for organized crime, which includes kidnapping, robbery, vehicle theft, extortion, land grabbing, contract killing, economic offenses, cybercrimes, trafficking in persons or drugs or weapons or illicit goods or services.
- **Terrorist Act:** Section 113 of BNS provides for punishment for terrorist acts. The section defines terrorist acts as activities intended to disrupt public order or create fear among people.
- **Attempt to Commit Suicide:** The offense of attempt to commit suicide has been deleted from the BNS. A new section (226) has been added to punish those who attempt to commit suicide with intent to compel or restrain any public servant from discharging his official duty.
- **Scope of Aggravated Theft Widened:** The domain of offense of theft has been expanded to include theft of vehicle, theft from vehicle, theft of government property and theft of idol or icon from any place of worship.
- **Gender Inclusivity and LGBTQ+:** BNS aims to make laws more gender-neutral and focus on offenses against women and children. However, it fails to include a section on sexual crimes against men and transgender persons, and its language remains inconsistent, with gender specifications for the victim remaining rigidly defined as a woman. It also does not extend inclusive language to transgender individuals and does not mention the LGBTQ+ despite landmark court judgments recognizing their rights.





- **Sedition:** The concept of sedition has undergone a significant transformation, with the new law placing greater emphasis on nationalistic sentiments and discouraging separatist ideas. The key differences between the old IPC section 124A (Sedition) and the new BNS section 152 are multifaceted. Firstly, the punishment for sedition has been heightened, with a maximum sentence of life imprisonment or a fine, as opposed to the previous maximum of life imprisonment and/or fine. Secondly, the new section 152 has broadened the definition of Sedition by including electronic communication and financial means as ways to commit this offense. Furthermore, it specifically lists secession, armed rebellion, or subversive activities as examples of acts that constitute sedition.

- **Offences against Women:** The concept of irrevocable consent upon marriage has been a cornerstone of the marital rape exception, rooted in Matthew Hale's works. This ideology was codified in English common law and incorporated into the Indian Penal Code (IPC). However, it remains in place despite being abolished in the UK in 1991. The Justice Verma Committee recommended repealing this provision in 2013, but it was not implemented. A recent Delhi High Court decision delivered a non-unanimous judgement on the constitutionality of the provision, leaving it pending before the Supreme Court. Considering efforts to decolonize India's criminal justice system, the passage of the BNS presented an opportunity to eradicate the marital rape exception and recognize married women's bodily autonomy and sexual integrity. Unfortunately, Section 63 Of the BNS retains this exception, perpetuating colonial-era notions that have contributed to a culture of violence against women. Section 312 of the Indian Penal Code (IPC) criminalizes abortion, except in cases where it is performed to save a pregnant woman's life. In contrast, the Medical Termination of Pregnancy Act, 1971 has liberalized access to abortion under specific circumstances, but does so through a framework of exceptions rather than establishing a fundamental right for women to make decisions about their own bodies. As a result, BNS can be seen as being overly strict and does not provide women with the autonomy to make choices about their own reproductive health. The language of "modesty" in Sections 354 and 509 of the IPC reinforces a patriarchal understanding of sexual violence, focusing on victims' character rather than bodily autonomy. Replacing this language with "sexual assault" in the BNS would have represented a significant departure from colonial morality. Provisions on obscenity in Sections 292 and 294 of the IPC rely on subjective and community based standards to determine what constitutes "obscenity." These tests are overly broad and rely on personal and community morality, leading to arbitrary enforcement. The Supreme Court has recognized the importance of constitutional morality in informing criminalization but has not led to significant changes in these provisions.

Delving Into the criticisms of the BNS, 2023: A famous jurist, Hans Kelson propounded the term, 'Groundnorm' which denotes, that the basic structure of the law doesn't change and the other laws derive its validity from the basic law. This is what happened in the case of new criminal laws. The Government has swapped the name of new criminal laws and re-shuffled the numbering of provisions into particular chapters which has created skepticism not only in retention of section numbers but Chapters as well. There hasn't been a novelty or a paradigm shift in the adoption of new criminal laws.

Despite the Hon'ble Supreme Court of India in *S.G. Vombatkere v. Union of India* called for putting the Sedition law in abeyance, still its traces can be rooted in the BNS. Section 124A of the Indian Penal Code, 1860 defined Sedition and provided its prescribed punishment. However, the BNS penalizes "Act endangering sovereignty, unity and integrity of India" under Section 152, which retains the draconian law of Sedition and continues in BNS is its Second Avatar. Section 111 of the BNS defines 'organized crime'. It provides a list of sub categories of offences of what constitutes organized crime.

Terms like 'cyber crimes' hasn't been elucidated nor elaborated within the BNS nor in the Information Technology Act, 2000. The Maharashtra Control of Organised Crime Act, 1999 and the United Nations Conventions against Transnational Organised Crime, 2000 already defined 'organised crime'. When such definitions were there in existence in specialized legislations, then what was the necessity to spawn a new definition in the BNS. Section 113 of the BNS defines 'Terrorist act'.



This provision has created a conundrum with same provision, i.e. Section 15 of the Unlawful Activities (Prevention) Act, 1967. The special law creates a non-obstante clause and it overrides the general legislation. Hence, the BNS, 2023 becomes in operational in its functioning consequently making the conclusiveness of anti-terrorism bleak in the near future.

Section 226 of the BNS criminalises attempt to commit suicide when restraining implementation of lawful exercise of power. This provision is a direct attack on human rights and democracy of the country. The BNS, on one hand, decriminalised attempt to commit suicide, but made it an offence Under Section 226. This provision is hampering the right to protest in form of fasting till death which is a blatant violation of human rights.

The Union Home Minister reiterated that attempt of the new criminal laws is to ensure decolonisation and “imbibing the Indian soul”. Such draconian and continuation of the post-colonial legacy affects the society as a whole. The people will seek relief from the Hon’ble Supreme Court of India for ascertainment and safeguarding the rights and liberties. The proposed Bharatiya Nyaya Sanhita, 2023 by the Union Government in itself is totalitarian and autocratic.

The cataclysmic amendment made in the Sanhita skewed the equilibrium between first, the people who possess power and authority, and second ensuring the rights of the people. The Apex court will experience its test when the constitutionality of these new Criminal laws gets challenged after its enforcement.

In conclusion, the Bharatiya Nyaya Sanhita, 2023 represents a missed opportunity for genuine decolonization and the promotion of indigenous legal principles. Instead, it appears to be a mere rebranding of existing laws, perpetuating draconian measures and undermining civil liberties.

The lack of substantive change and the retention of problematic provisions raise concerns about its compatibility with democratic values and human rights. As challenges to its constitutionality loom large, the true test will be whether the judiciary upholds the principles of justice and ensures the protection of rights in the face of authoritarian tendencies.





# ARIJIT KUNDU

On 1st July, 2024, the three archaic criminal laws cease to exist, and Bharat set behind the mark of imperialism and implemented the three new criminal laws: Bharatiya Nagarik Suraksha Sanhita, 2023; Bharatiya Nyaya Sanhita, 2023; and Bharatiya Sakshya Adhiniyam, 2023.

This article will address the implications of the change of the Indian Evidence Act, 1872, to the Bharatiya Sakshya Adhiniyam, 2023.

## Removal of Archaic and Use of Inclusive Language:

The BSA also decides to replace the outdated legal terminology used in the IEA with more contemporary, inclusive, and acceptable terms and expressions. Section 124 of the BSA, which takes the place of Section 118 of the IEA and deals with the production of a competent witness, is one example of this alteration. The term "lunatic" was used in the IEA's section explanation to describe the stance about the ability of people who are mentally ill to testify. The phrase "a person of unsound mind" has been used by the BSA in its stead. According to several perspectives, the usage of terms such as "lunatic" or "idiot" has a negative impact on how society regards people with mental diseases, producing a

sense of division among them in a functional society. As a result, removing such phrases from legislation, and therefore from judicial discourse, is a positive step that is intended to promote better integration and acceptance of people with mental illnesses into society. Various terminology and phrases associated with India's colonial past, which were contained in the IEA as a result of Sir James F. Stephen's drafting, have been fully eliminated, and the parts of the BSA now feature language that appropriately replaced them. For example, the words "of Her Majesty's Dominions," used in Section 86 of the IEA, in the context of the presumption of copies of foreign judicial records, have been removed and are now replaced with the words "of any country beyond India," under Section 88(1) of the BSA.

## Taking Cognisance of Digital Evidence:

Previously, courts granted discretionary exceptions to allow witnesses to present electronic evidence, including in testamentary cases. A positive change with the new law is that this is no longer a question of discretion but rather the norm, eliminating prolonged debates over the admissibility of electronic evidence in the





case at hand and its relevance to the existing trial. The BSA has added "electronic and digital records" to the definition of "document" under Section 2(d). Furthermore, the definition of evidence under Section 2(e) of the BSA has been altered, with the words "statements given electronically" added, broadening the scope of evidence that can be given in accordance with the fact that many communication exchanges occur digitally, making it only natural to include those in the definition of evidence. In line with these changes, the entire BSA includes words such as "digital" in order to include electronic records in the realm of applicability of other provisions. The BSA introduced Section 61, which provides that electronic evidence cannot be declared inadmissible solely by virtue of being in an electronic form.

Conclusion:

BSA makes an earnest attempt to modernize itself to meet the current demands of the times by permitting electronic and digital records and replacing the archaic ideas. While early challenges are inevitable, the jurisprudence will soon emerge, and hopefully trials will become more efficient.





# BRISTEE BISWAS

The Bharatiya Nyaya Sanhita (BNS), which replaced the Indian Penal Code (IPC) of 1860, aims to create a more modern legal framework in India. It tries to broaden the spectrum of protection beyond traditional gender lines by introducing a gender-neutral approach to laws surrounding sexual offenses. The language used in certain sections has been updated to replace gendered terms and also attempts to widen the definition of certain terms. Under the IPC, the definition of “gender” under Section 8 and “man” and “woman” under Section 10 had been given restricted meanings so that transgender persons are not included. However, the BNS has widened the definition of “gender” under Section 10 to include transgender persons. The offense of voyeurism has been expanded under Section 77 of the BNS wherein the victim still is a “woman” but the perpetrator has been made gender neutral from a “man” under Section 354C of the IPC to “whoever” under Section 77 of BNS. Section 112[5] Protection against domestic violence provides preventive measures for victims of domestic violence; these protections apply universally to everyone including men and persons who identify as LGBTQI+. Section 79 of the BNS being ad rem to Section 509 of the IPC to punish the offense of any word, gesture or act to insult the modesty or privacy of a woman still has the victim as “woman” whereas the perpetrator being “whoever” as gender-neutral. Section 63 of the BNS, defining “rape” is verbatim to Section 375 of the IPC, 1860 [as amended by the Criminal Law (Amendment) Act, 2013] wherein only a “man” is a perpetrator and a “woman” is a victim. Section 377, historically part of the IPC, criminalized “unnatural offenses” which included non-consensual sexual acts irrespective of gender, as well as consensual same-sex relationships until its partial decriminalization by the Supreme Court in 2018 through the Navtej Singh Johar v. Union of India judgment.





The new BNS laws excluded this provision which can aptly be considered as a regressive step as it leaves a critical gap in the legal protection framework of male and transgender victims. Also, BNS has not remedied this issue of addressing rape, continuing to limit the definition of rape to crimes committed against women. In contrast, globally nearly 77 countries have incorporated and enforced gender-neutral rape laws. The Criminal Law (Amendment) Bill, 2021 on December 3, 2021, by a Member of Parliament K.T.S. Tulsi, aimed to introduce gender neutral laws. However, this bill remained unnoticed even in the formulation of BNS. Vrinda Grover (Lawyer and Activist) emphasizes that excluding male and transgender victims from rape laws signals societal disregard for their experiences and perpetuates systemic discrimination against sexual minorities. In India, deep-rooted patriarchal notions often lead to the assumption that men, being physically stronger, cannot be victims of sexual assault or harassment. Such stereotypes discourage male victims from reporting their experiences, as they fear disbelief, ridicule, or societal judgment. When the perpetrator is a woman, male victims face additional stigma, often accused of lying or enjoying the assault, which further undermines their trauma. Transgender individuals, a particularly vulnerable group, face significant hurdles in accessing justice for sexual violence, as existing laws do not explicitly include them as victims. Rape is one of the most grievous forms of human rights violation committed against any person. Undoubtedly, the BNS have advanced the cause of justice for women in India. But it will remain incomplete without the incorporation of gender-neutral laws for sexual offenses.







# Comparative Analysis of IPC, CrPC, Evidence Act, and Emerging Legal Acts: BNS, BNSS, and BSA

India's legal framework is built on the bedrock of comprehensive statutes that govern criminal law and procedural justice. Among these, the Indian Penal Code (IPC), Code of Criminal Procedure (Cr.PC), and Indian Evidence Act form the foundation of criminal jurisprudence. Over time, new legal instruments, such as the BNS (Bharatiya Nyaya Sanhita), BNSS (Bharatiya Nagarik Suraksha Sanhita), and BSA (Bharatiya Sakshya Adhiniyam), have been introduced, promising to modernize and simplify the criminal justice system. This article explores the distinctions and significance of these laws.

- **Indian Penal Code (IPC) vs. Bharatiya Nyaya Sanhita (BNS)**

If we try to compare the new act, i.e., BNS with the old act, i.e., Indian Penal Code (IPC), we will find that changes are made based on language, Scope of the new act and efficiency of the act. If we talk about IPC, it is an old act drafted by the first Law Commission of India, chaired by Thomas Babington Macaulay on 1 st January 1860. The IPC serves as the backbone of criminal law in India. It is a substantive law which defines offenses, categorizes them based on severity, and prescribes punishments. It categorizes offenses into various classes such as offenses against the state, property, and the human body. This Act is divided into 23 chapters and 511 sections, covering offenses like murder, theft, cheating, and rioting. It has comprehensive definitions of crimes, punishments which include imprisonment, fines, and capital punishment. The drawback of this act is the archaic language, outdated definitions, and lack of provisions for emerging crimes like cyber offenses make it less relevant in contemporary times.

On the other hand, Bharatiya Nyaya Sanhita (BNS) was introduced on August 11, 2023 by the Standing Committee on Home Affairs to replace the IPC with a modernized approach to criminal law. The Act came into effect from 1 st July 2024. It is an updated version of the IPC, focusing on making the language and provisions clearer and more in tune with contemporary challenges. It focuses on faster resolution of disputes, simplify legal provisions and make them more accessible to the common man. It also addresses contemporary crimes that were absent in the IPC. This act simplified and localized to ensure better understanding by citizens and the law aspirants. This act recognizes the offenses like cyberstalking, organized crime, and economic offenses which were absent in IPC. This act provides better protection and support mechanisms for victims of crime and also strengthens penalties for heinous crimes to ensure effective deterrence.

- **Code of Criminal Procedure (Cr.PC) vs. Bharatiya Nagarik Suraksha Sanhita (BNSS)**

The Code of Criminal Procedure (Cr.PC) in India was first was enacted after the Indian Penal Code was passed in 1860. The Cr.PC was created for the first time ever in 1882 and then amended in 1898, and then according to the 41st Law Commission report in 1973. The Cr.PC's main objective is to ensure that the accused receives a fair trial. The Cr.PC is the procedural framework for investigating, prosecuting, trial, sentencing, appeals and adjudicating criminal cases. It ensures the rights of the accused and sets timelines for various stages of the trial process. This act has provisions for public safety and the maintenance of law and order in India. This act gives police Investigative powers. This act clearly defines the police powers regarding arrests, searches, and seizures. This act also protects the rights of the accused, including bail provisions and fair trials. The challenges that were faced in this act are the lack of accountability mechanisms and minimal technological integration hinder justice delivery. Another most crucial difficulty that has been seen over the years with this act is the delay of trials.

On the other hand, Bharatiya Nagarik Suraksha Sanhita (BNSS) was introduced on August 11, 2023 by the Standing Committee on Home Affairs to replace the Cr.PC with a modernized approach to criminal law. The Act came into effect from 1 st July 2024. The BNSS focus on enhancing public safety, improving police accountability, and integrating technology into criminal procedures. It also emphasizes citizen-centric policing and digital integration. This act has certain provisions of arrest and bail which is simplified and easy to understand than CrPC. This act also has the provision of digital record keeping and e-filing of cases. This act has citizen centric policies which focus on transparency and community engagement to build trust. This act has introduces e-filing, digital case tracking, and forensic tools to expedite investigations. The arrest provision's of this act is simplified. This act has streamlines procedures to reduce unnecessary detentions while ensuring fairness.



• **Indian Evidence Act vs. Bharatiya Sakshya Adhiniyam (BSA)**

The Indian Evidence Act, 1872 admissibility of evidence in courts. It establishes rules for presenting oral, documentary, and circumstantial evidence while emphasizing the burden of proof and presumption of innocence. It governs the admissibility and relevance of evidence in courts. This act classifies evidence into oral, documentary, direct, indirect and circumstantial. It focuses on relevance, reliability, and legal formalities, in other words the admissibility of the evidence in the court of law. This act has only one drawback that is there are limited scope for modern evidence, such as electronic data and forensic reports. On the other hand, the Bharatiya Sakshya Adhiniyam (BSA) is designed incorporate advancements in forensic science and digital evidence. It was introduced on August 11, 2023 by the Standing Committee on Home Affairs to replace the Evidence Act with a modernized approach towards the system of admissibility of evidence in India. The Act came into effect from 1 st July 2024. The BSA replaces the Evidence Act to accommodate advancements in technology and forensic science. It aims to make evidence handling more robust and adaptable to modern requirements. It also has the provisions to control the misuse of fabricated evidence and it also provides the clarity on burden of proof in digital cases.

The transition from the IPC, Cr.PC, and Evidence Act to the BNS, BNSS, and BSA represents a transformative shift in India’s legal landscape. By addressing the shortcomings of the older statutes and integrating modern practices, these new laws are poised to deliver justice more effectively and equitably. They reflect India’s commitment to creating a justice system that is transparent, efficient, and attuned to the needs of the 21st century.

**Dhrubjoty Dawn**

Point of Distinction	Indian Penal Code, 1860 (IPC)	Bhartiya Nyaya Sanhita, 2023 (BNS)
Year of Enactment	1860	2023
Legislative Intent	Drafted during British rule to govern the criminal system in colonial India.	Aimed at modernizing Indian criminal law to reflect contemporary socio-political realities.
Language and Approach	Written in older, colonial-era English with references to British legal traditions.	Simplified, modernized language and culturally relevant provisions for Indian society.
Sections	511 sections divided into 23 chapters.	356 sections divided into 26 chapters.
Focus on Modern Offenses	Limited provisions for cybercrimes, terrorism, and white-collar crimes.	Incorporates comprehensive provisions for modern crimes like cybercrime, terrorism, and organized crime.
Death Penalty	Prescribes death penalty for crimes like murder and treason.	Retains death penalty but promotes alternative, proportionate punishments in certain cases.
Victim-Centric Approach	Focus is more offender-centric, with limited victim restitution mechanisms.	Emphasizes victim-centric justice, including provisions for victim rehabilitation and restitution.





Point of Distinction	Indian Penal Code, 1860 (IPC)	Bhartiya Nyaya Sanhita, 2023 (BNS)
Cybercrime Provisions	No direct provisions for cybercrimes (addressed under other laws like IT Act).	Explicit provisions for cybercrimes, hacking, and digital fraud.
Marital Rape	No recognition of marital rape as a crime (exception in Section 375).	Includes provisions recognizing marital rape as an offense in specific circumstances.
Sedition	Section 124A defined sedition as promoting disaffection against the government.	Repeals sedition law and replaces it with provisions against acts endangering sovereignty and unity.

Point of Distinction	Code of Criminal Procedure, 1973 (Cr.PC)	Bhartiya Nagarik Suraksha Sanhita, 2023 (BNSS)
Objective	Governs the procedural aspects of criminal law and administration of justice in India.	Aims to modernize, simplify, and update the procedural framework while incorporating technological advancements.
Division of Chapters	Divided into 37 Chapters, covering 484 Sections.	Divided into 19 Chapters, covering 533 Sections.
Focus on Technology	Limited provisions for the use of technology in criminal justice administration.	Strong emphasis on using digital tools and technology, including e-FIRs and video-recording of statements.
Provisions for FIR Registration	Manual and in-person filing of First Information Reports (FIRs).	Facilitates filing of e-FIRs for specific categories of crimes through online platforms.
Bail Provisions	Bail provisions are distributed across various sections with scope for judicial discretion.	Simplified and streamlined bail provisions to reduce ambiguity.
Trial Procedures	Trial procedures detailed in Chapters XVIII-XXIII.	Simplifies trial processes to ensure speedier resolution of cases.
Arrest Procedures	Detailed in Sections 41-60A, with emphasis on procedural fairness.	Introduces updated and stricter rules for arrests, particularly to prevent misuse of power.
Women and Child-Friendly Provisions	Limited specific provisions to safeguard women and children during the criminal process.	Enhanced safeguards for women and children, including special provisions for gender-sensitive investigations.



Point of Distinction	Code of Criminal Procedure, 1973 (Cr.PC)	Bhartiya Nagarik Suraksha Sanhita, 2023 (BNSS)
Victim Rights	Limited focus on victim rights, primarily through compensation schemes.	Broader victim-centric provisions, including access to justice and greater involvement in proceedings.
Preventive Measures	Preventive provisions primarily under Chapters VIII and X.	Strengthened preventive measures, including provisions to curb organized crime and terrorism.
Point of Distinction	Indian Evidence Act, 1872 (IEA)	Bhartiya Sakshiya Adhiniyam, 2023 (BNS)
Division of Chapters	Divided into 11 Chapters and 167 Sections.	Divided into 15 Chapters and 186 Sections.
Confessions and Admissions	Governed under Sections 17-31.	Updated provisions to include admissibility of digital confessions and AI-interpreted admissions.
Technological Adaptation	Limited provisions for handling digital or electronic evidence.	Comprehensive provisions for digital, electronic, and scientific evidence.
Admissibility of Evidence	Focuses on documentary, oral, and material evidence.	Broadens admissibility to include blockchain records, metadata, and AI-generated evidence.
Presumptions	Specific presumptions listed under Sections 79-90A.	Expanded presumptions to address electronic contracts, e-signatures, and cybersecurity.
Electronic Records	Addressed under Sections 65A and 65B, introduced via IT Act amendments.	Fully integrated provisions for electronic evidence, eliminating ambiguities from earlier law.
Forensic and Scientific Evidence	Minimal focus on forensic and scientific evidence.	Detailed sections for DNA profiling, forensic techniques, and other advanced scientific methods.
Cross-Examination	Provisions detailed in Sections 137-138.	Incorporates rules for virtual cross-examinations in digital settings.
Witness Statements	Focus on oral and written statements.	Integration of video and audio-recorded statements as primary evidence.

Abhishikta Purkayastha  
Alapan Sarkar  
Biswadeep Ghosh  
Soumee Roy





# DID YOU KNOW



1. The IPC was enacted in 1860 because it was not just randomly chosen - it was a direct response to the Indian Rebellion of 1857, making it one of the few law codes born from a revolution!

2. Did you know the Indian Penal Code has a heart-warming provision called “good faith” (Section 52)? If a person accidentally causes trouble while sincerely trying to help someone, the law actually protects that person. It is basically the legal version of “it’s the thought that counts!”

3. Did you know the magistrates in India have a secret superpower hidden in the criminal procedure code? It is not really a superpower, but they can issue “special orders” under Section 144 to stop public gatherings during emergencies. It is like they wave a magic wand to make crowds disappear - just a little legal trick to maintain order when things get uncertain!

4. The famous “Section 144” of Code of Criminal Procedure that we hear about during protests was actually designed by the British to control salt marches during the independence movement.



5. The Evidence Act was drafted by Sir James Fitzjames Stephen in 1872, but what is fascinating is that he wrote it during a vacation in Shimla!

6. The act does not actually define “proof”; - it only talks about what is “proved”. This philosophical distinction has led to many interesting legal debates.



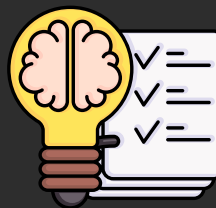
**7. The BNS recognizes mob lynching and organized crime through electronic means as specific offenses - something the 163-year-old IPC could not have imagined!**

**8. The definition of “document” now includes electronic and digital records - something unimaginable when the IPC was written with quill and paper in mind.**

**9. For the first time in Indian legal history, the BNSS mandates video recording of search and seizure operations - a huge step towards transparency!**

**10. The BNSS introduces a zero FIR system nationwide - meaning someone can file an FIR at any police station regardless of jurisdiction.**

**11. In BSA, the law recognizes artificial intelligence and machine learning based evidence analysis - something unimaginable in the colonial era.**




**12. In BSA, the law introduces provisions for accepting evidence collected through drones and other modern surveillance technology - truly bringing evidence law into the 21st century.**




Compiled by  
Tiyasha Hazra and  
Addaya Ghosh




# THE AMAZING WORLD OF INTERNATIONAL LAW




The “Open Prison” System (Norway).  
Norway’s Halden Prison looks more like a college campus than a jail. Inmates have access to recording studios, art classes, and can even cook their own meals.




The “Back to Society” Program (Denmark).  
Danish prisons have a fascinating provision allowing inmates to leave prison during the day to work regular jobs in the community. They even pay taxes! However, they must return to prison each evening.




In Japan, if a family member commits a crime, the entire family might be subject to investigation and social responsibility. This has led to one of the world’s lowest crime rates - family pressure as crime prevention!




The “Social Death” Provision (South Korea).  
South Korea has an interesting law where convicted criminals can be banned from using social media and gaming platforms - a modern form of social ostracism that really hits home in the digital age.




The “Filial Piety” Law (China).  
China has criminalized not visiting one’s elderly parents regularly. It’s part of their Elder Rights Law, and one can actually be fined or jailed for being an irresponsible child.




The “Universal Jurisdiction” Principle (Belgium).  
Belgian courts can try individuals for serious crimes committed anywhere in the world, even if neither the victim nor the perpetrator is Belgian. It’s like being the world’s legal watchdog.



The “Peace Courts” System (Brazil).  
Brazil has special courts for minor disputes where judges can create unique, customized solutions. One judge famously ordered a man who made racist comments to study African history instead of going to jail!



The “Environmental Crime” Provision (Costa Rica).  
Costa Rica treats crimes against nature as seriously as crimes against humans. Cutting down a protected tree can land any person in as much trouble as assault!



The “Social Service Alternative” (Mexico).  
In some Mexican states, minor offenders can choose to teach literacy classes instead of paying fines or serving jail time. It’s like turning a punishment into a community service!

Compiled by  
Tiyasha Hazra and  
Addaya Ghosh





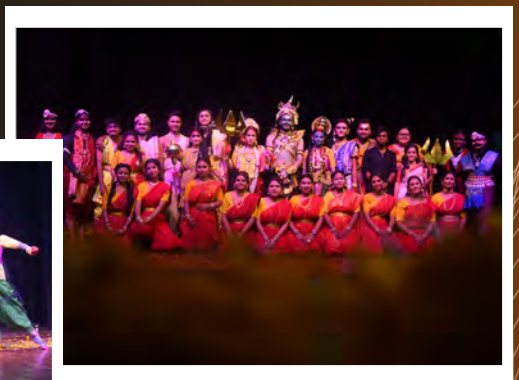
# EVENT GALLERY



**CONCORD, 2024**  
**(25.09.2024)**



**MAHISASHURMARDINI, 2024**  
**(01.10.2024)**

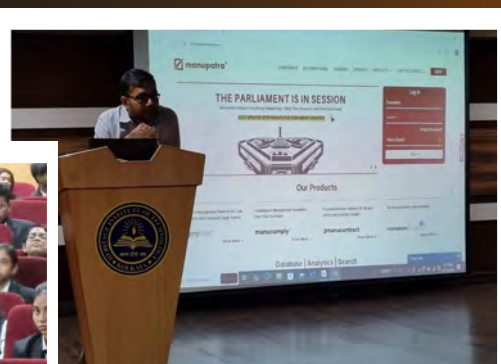




**CONSTITUTION DAY, 2024**  
**(26.11.2024)**



**WORKSHOP ON MANUPATRA**  
**(10.12.2024)**





## EDUCATIONAL TOUR - SUPREME COURT OF INDIA (NOVEMBER, 2024)





**CONVICTED**



**"CRIMINAL JUSTICE IS NOT  
ABOUT REVENGE; IT'S ABOUT  
FAIRNESS, ACCOUNTABILITY,  
AND REHABILITATION."**

**— BRYAN STEVENSON**



**SHINJINEE DASGUPTA**