
LEGISLATIVE EVOLUTION: A COMPARATIVE STUDY OF IPC 1860 AND CRPC 1973 VIS-À-VIS BHARATIYA NYAYA SANHITA, 2023 AND BHARATIYA NAGARIK SURAKSHA SANHITA, 2023 IN INDIA'S LEGAL LANDSCAPE

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ABSTRACT

India's criminal justice system has evolved over centuries, shaped by influences ranging from Vedic teachings to colonial administration. Despite recent legislative reforms, including significant amendments to criminal laws, challenges persist in understanding their effectiveness and implementation. This study delves into the practical implications of newly enacted criminal statutes, aiming to assess their alignment with contemporary societal norms and legal principles. By investigating the impact and challenges associated with these laws, the research seeks to provide insights crucial for informed policymaking and legal practice in the realm of criminal justice. Through a comprehensive analysis of the legislative evolution of key statutes such as the Indian Penal Code and the Code of Criminal Procedure, this study evaluates judicial interpretations, conducts comparative analyses with recent legislative enactments, and assesses societal impacts. Utilizing a mixed-methods approach encompassing doctrinal analysis, comparative methods, and integration of findings, the research endeavors to contribute valuable evidence-based recommendations for enhancing the fairness, efficiency, and efficacy of India's criminal justice system.

INTRODUCTION

BACKGROUND OF THE STUDY

Throughout the annals of India's history, the evolution of its criminal justice framework traverses various epochs, encompassing the Vedic period, Delhi Sultanate, Mughal Empire, and extending to contemporary times. In the Vedic era, the ethos of Rig Vedic teachings steered the course of punishments and societal order under the umbrella of Dharma. Subsequent to this, during the Delhi Sultanate, there was a metamorphosis influenced by texts like Smriti, coupled with the application of Shariat law.

In the era of the Mughal Empire, the establishment of the Mahakuma e Adalat introduced a department tasked with handling both criminal and civil matters under Islamic jurisprudence. Nonetheless, this system encountered numerous hurdles, including the fusion of judiciary and executive functions, erratic application of criminal statutes, and instances of corruption.

The Colonial era ushered in a seismic shift. The East India Company wielded significant influence in reshaping this landscape, alongside the institution of court systems and the inception of the High Court. These pivotal changes laid the groundwork for the formulation of legislative codes in the 1860s.

These legislations have undergone revisions based on inputs from the Standing Committee and have garnered approval from both chambers of Parliament. The assent of the Hon'ble President on December 25th, 2023 marked a significant milestone. The impetus for reforms and legislative amendments stems from the recognition that existing laws are vestiges of a bygone colonial era, reflecting a justice system designed to suppress rather than uphold justice. Many provisions of antiquated laws have become obsolete, necessitating comprehensive reform.¹

OBJECTIVES OF THE STUDY

The dissertation aims to comprehensively analyse the legislative evolution of the Indian Penal Code (IPC) 1860 and the Code of Criminal Procedure (CrPC) 1973. Key objectives include

¹ M. Kumar, "Evolution of Criminal Justice in Historical Perspective," in *Legal Dynamics: Exploring the Intersection of Law and Society*, ed. R. Sharma, 76-89 (Central Law Publications, New Delhi, 2022).

evaluating the impact of judicial interpretations, conducting a comparative analysis with Bharatiya Nyaya Sanhita, 2023, and Bharatiya Nagarik Suraksha Sanhita, 2023, and assessing the societal impact of them. The research also seeks to explore the rationale behind the new legislations, identify trends in legislative evolution, and provide recommendations for potential amendments. The study contributes to comparative legal studies, emphasizing ethical and legal considerations throughout the research process.

RESEARCH QUESTIONS

1. How do new criminal laws contribute to changes in crime rates and patterns?
2. What mechanisms within the criminal justice system facilitate or hinder the implementation of new laws?
3. In what ways do new criminal laws address emerging societal challenges and legal complexities?
4. How do stakeholders perceive the effectiveness and fairness of new criminal laws in practice?
5. What role do societal attitudes and perceptions play in shaping compliance with new criminal laws?
6. To what extent do new criminal laws align with principles of justice, human rights, and legal ethics?
7. What strategies can be employed to improve the implementation and enforcement of new criminal laws?
8. How do variations in legal interpretations and judicial discretion impact the outcomes of cases under new criminal laws?
9. What are the unintended consequences or limitations associated with the implementation of new criminal laws?
10. How do changes in criminal laws influence public trust, confidence, and satisfaction with the legal system?

Key Highlights of Bharatiya Nyaya Sanhita, 2023

- 1. Replacement of IPC, 1860:**

- The new legislation, Bharatiya Nyaya Sanhita (BNS), 2023, supersedes the Indian Penal Code, 1860.

2. Reorganization of Offences:

- Offences against women, children, and murder are prioritized and consolidated under Chapter-V.

- Offences affecting the human body are reorganized and placed after the chapter on offences against women and children.

3. Streamlining of Sections:

- BNS consists of 358 sections, down from 511 sections in IPC, 1860.

4. Consolidation of Incomplete Categories:

- Attempt, abetment, and conspiracy offences are grouped under one chapter in BNS, 2023.

5. Introduction of Community Service:

- Community service is introduced as a punishment for minor offences, promoting a reformatory approach.

6. Extraterritorial Offences:

- Abetment of offences committed in India from outside the country is now an offence under BNS, 2023.

7. Protection of Women's Rights:

- New offences, such as sexual intercourse on false promises and snatching, aim to protect women's rights and safety.

8. Elimination of Age-based Parameters:

- Age-based distinctions in punishments for gang rape are removed, ensuring consistent sentencing for offenders.

9. Gender Neutrality in Offences:

- Assault and voyeurism offences are made gender-neutral to address emerging challenges.

10. Child Exploitation:

- Employing or engaging children for criminal activities is punishable under BNS, 2023.

11. Hit and Run Offences:

- Hit and run incidents now attract strict punishment under BNS, 2023.

12. Combatting Organized Crime and Terrorism:

- New provisions target organized crime and terrorist acts, with stringent punishments.

13. Harsher Punishment for Grievous Hurt:

- Acts causing persistent vegetative state or permanent disability entail harsher penalties.

14. Protection of Minors:

- Importation of minors is made punishable, safeguarding them from exploitation.

15. Sedition Reforms:

- Sedition laws are repealed to uphold freedom of speech and expression.

16. Secessionist Activities:

- New offences target secessionist and subversive activities to protect national integrity.

17. Reform of Suicide-related Offences:

- Attempt to commit suicide is decriminalized, aligning with mental health laws.

18. Expansion of Mischief Offences:

- Offences related to causing property damage are expanded under BNS, 2023.

19. Lynching Offences:

- New provisions address lynching incidents, imposing mandatory imprisonment for perpetrators.

These points summarize the key provisions and reforms introduced in the Bharatiya Nyaya Sanhita, 2023.

COMPARATIVE ANALYSIS OF IPC, 1860 WITH BHARTIYA NYAYA SANHITA, 2023

THE INDIAN PENAL CODE, 1860	THE BHARATIYA NYAYA SANHITA, 2023	CHANGES
SECTION OF THE INDIAN PENAL CODE	SECTION OF THE BHARTIYA NYAYA SANHITA	
<p>Chapter I and II, that is, “Introduction” and “General Explanation” respectively under Sections 1 to 52 A.</p>	<p>Chapter I “Preliminary” under Sections 1 to 3</p>	
<p>Section 1- Title and of operation of the Code</p>	<p>Section 1-Short title, commencement and application</p>	<p>The Section 1 now collectively deals with different aspects under its various sub-sections. The new provision corresponds to the old as follows – Section 1 of the IPC is under Section 1 (1) of the BNS.</p>

		<p>Section 2 of the IPC is now under Section 1 (3) of the BNS.</p>
		<p>Section 3 of the IPC is now under Section 1 (4) of the BNS. Herein the words “any Indian law” are replaced with “any law for the time being in force in India”.</p> <p>Section 4 of the IPC is now under Section 1 (5) of the BNS. The Explanation (b) to Section 4 of the IPC has been omitted. Also, here the word “Uganda” has been replaced with “any place without and beyond India” under the Illustration to the section.</p> <p>Section 5 of the IPC is now under Section 1 (6) of the BNS.</p>

<p>Sections 8 to 26, 28 to 31, 33 and 39 to 52 A.</p>	<p>Section 2 (1) to (39) – Definitions</p>	<p>Section 2 of the BNS contains the definitions under the sub – sections (1) to (39). Earlier it was present under Sections 8 to 26, 28 to 31, 33 and 39 to 52 A of the IPC.</p> <p>The changes made in the BNS with reference to the “definition” part are mentioned below-</p>
<p>Section 40- “Offence” -</p>	<p>Section 2 (24) “offence”.</p>	<p>The general definition of offence which was construed through the words “the word “offence” denotes a thing made punishable by this Code” is changed to “offence” means an act made punishable by this Sanhita”.</p> <p>The rest of the changes</p>

		<p>are done as the various section numbers are changed in the Sanhita.</p>
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<p>Chapter III “Of Punishments” under Sections 53 to 75.</p>	<p>Chapter II “Punishment” under Sections 4 to 13.</p>	
<p>Section 53- Punishments</p>	<p>Section 4- Punishments</p>	<p>A new punishment of “Community service” is added under Section 4 (f) of the BNS.</p>
<p>Section 53 A- Construction of</p>		<p>This section is omitted in the BNS.</p>

reference to transportation		
<p>Section 54- of Commutation of sentence of death</p>	<p>Section 5- of Commutation of sentence</p>	<p>The Section 5 now collectively deals with different aspects under its various sub-sections.</p> <p>The new provision corresponds to the old as follows –</p> <p>Section 54 of the IPC is now under Section 5 of the BNS.</p> <p>Section 55 of the IPC is now under Section 5 of the BNS.</p> <p>Section 55 A of the IPC is now under Explanation to the Section 5 of the BNS.</p>

<p>Chapter IV “General Exception” under Sections 76 to 106.</p>	<p>Chapter III “General Exception” under Sections 14 to 44.</p>	
<p>Section 89</p>	<p>Section 27.</p>	<p>The word “insane person” has been replaced with “person of unsound mind.</p>
<p>Section 98-</p>	<p>Section 36-</p>	<p>The word “madness” has been changed to “person of unsound mind” under Illustration (a).</p>
<p>Section 103-</p>	<p>Section 41.</p>	<p>The words “House-breaking by night” are changed to “house-breaking after sun set and before sun rise”.</p> <p>The words “Mischief by fire” are changed to “mischief by fire or any explosive substance”.</p>
<p>Section 105-</p>	<p>Section 43-</p>	<p>The words “House-breaking by night” are changed to “house-</p>

		breaking after sun set and before sun rise”.
<p>Chapter V “Abetment” under Sections 107 to 120.</p> <p>Chapter V A “Criminal Conspiracy” under Section 120A and 120 B.</p> <p>Chapter XXIII “of Attempt to commit offences” under Section 511.</p>	<p>Chapter IV “Abetment, Criminal Conspiracy and Attempt” under Sections 45 to 62.</p>	
Section 108- Abettor	Section 46- Abettor	For Illustration (a) to the Explanation 3 of the Section 46 of the BNS- The word “lunatic” is now “unsound mind”.
Section 108 A- Abetment in India of offences outside India.	Section 47- Abetment in India of offences outside India.	The word “Goa” has been changed to “Country X”.

Section 116- Abetment of offence punishable with imprisonment- if offence is not committed	Section 56- Abetment of offence punishable with imprisonment	The following Illustration (a) is now omitted- A offers a bribe to B, a public servant, as a reward for showing A some favour in the exercise of B's official functions. B refuses to accept the bribe. A is punishable under this section.

	Section 48 – Abetment outside India for offence in India.	This is a newly added provision.
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<p>Section 375- Rape</p>	<p>Section 63- Rape</p>	<p>The word “fifteen years” has been changed to “eighteen years” under the Section 63 Exception 2 of the BNS. This is done in consonance with the landmark Supreme Court judgment in the case of Independent Thought v. Union of India and Anr. (2017 SC).</p>
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<p>Section 376 sub-section (3) - Punishment for rape on woman under sixteen years of age</p> <p>Section 376 AB- Punishment for rape on woman under twelve years of age</p>	<p>Section 65 - Punishment for rape in certain cases</p>	<p>The Section 65 now collectively deals with different aspects under its various sub-sections.</p> <p>The new provision corresponds to the old provision as follows – Section 376 sub-section (3) of the IPC is now under Section 65 (1) of the BNS. Section 376 AB of the IPC is now under Section 65 (2) of the BNS.</p>
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	<p><i>Section 69- Sexual intercourse by employing deceitful means, etc</i></p>	<p>This is a newly added provision. Earlier this was dealt under the Section 90 but now separate provision</p>
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<p>Section 376 D- Gang Rape</p>	<p>Section 70- Gang Rape</p>	<p>The Section 70 now collectively deals with different aspects under its various sub-sections. The new provision corresponds to the old provision as follows – Section 376 D of the IPC is now Section 70 (1) of the BNS.</p> <p>Section 376 DA and 376 DB of the IPC is now under Section 70 (2) of the BNS.</p>
		<p>The Section 70 sub-section (2) of the BNS provides for the punishment for gangrape on a woman under eighteen years of age. There is a general punishment for gangrape on a minor woman and there is no differentiation in the</p>

		<p>punishment as was earlier present in the IPC.</p>
<p>Section 377- Unnatural offences</p>		<p>This section is omitted in the BNS. This has been done in consonance with the Supreme Court judgment in the case of Navtej Singh Johar & Others. v. Union of India (2018 SC).</p>
<p>Section 497- Adultery</p>		<p>This section omitted. in the BNS. This has been done in consonance with the Supreme Court judgment in the case of Joseph Shine v. Union of</p>

		India (2018 SC).
	Section 95 - Hiring, employing or engaging a child to commit an offence	This is a newly added provision.
Chapter XVI "Of Offences affecting human body under Sections 299 to 377	Chapter VI "Of Offences affecting human body" under Sections 100 to 146	
Section 300 – Murder	Section 101 - Murder	<p>The words "if the act by which the death is caused" are added in each clause to the Section 101 of the BNS.</p> <p>The words "The above exception is subject to the following provisos" are changed to "Provided that the provocation</p>

		is not” under Exception 1 to the Section 101 of theBNS.
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Section 302- Punishment of murder	Section 103 - Punishment for murder	A new sub-section has been added for the punishment of murder under Section 103 sub-section (2) which states that-
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		<i>“When a group of five or more persons acting in concert commits murder on the ground of race, caste or community, sex, place of birth, language, personal belief or any other similar ground each member of such</i>
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		<p><i>group shall be punished with death or with imprisonment for life, and shall also be liable to fine.”</i></p>
Section 305- Abetment of suicide of child or insane person	Section 107 - Abetment of suicide of child or person of unsound mind	The word “insane person” has been changed to “unsound mind”
Section 307- Attempt to murder	Section 109 - Attempt to murder	The Punishment of “imprisonment of life” is added for attempt to murder by life-convicts.

Section 309- Attempt to commit suicide		This section is omitted in the BNS.
Section 310- Thug Section 311- Punishment		These two sections are omitted in the BNS.

	<p>Section 111 - Organised Crime</p> <p>Section 112 - Petty organised crime</p> <p>Section 113 - Terrorist act</p>	<p>These are newly added provisions- Section 111 to 113.</p> <p><i>Section 111 - Organised crime</i></p> <p><i>Section 112 - Petty organised crime</i></p> <p><i>Section 113 - Terrorist act</i></p>
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<p>Section 320 – Grievous Hurt</p>	<p>Section 116- Grievous Hurt</p>	<p>The number of days is changed to “15 days” from “20 days”.</p>
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<p>Section 322 – Voluntarily causing grievous hurt</p>	<p>Section 117- Voluntarily causing grievous hurt</p>	<p>Section 117 now collectively deals with different aspects under its various sub-sections. The new provision corresponds to the old provision as follows –</p> <p>Section 322 of the IPC is now under Section 117 (1) of the BNS. Section 325 of the IPC is now under Section 117 (2) of the BNS.</p> <p>In the Illustration, the number of days is changed to 15 days from 20 days.</p> <p>There are 2 new additions in the form of sub-sections.</p>
<p>Section 324- Voluntarily causing hurt by dangerous weapons or means</p>	<p>Section 118– Voluntarily causing hurt or grievous hurt by dangerous weapons or means.</p>	<p>Section 118 now collectively deals with different aspects under its various sub-sections. The new provision corresponds to the old provision as follows –</p>

		<p>Section 324 of the IPC is now under Section 118 (1) of the BNS. The words “with fine” are replaced with “with fine which may extend to twenty thousand rupees”.</p> <p>Section 326 of the IPC is now under Section 118 (2) of the BNS. In the term of imprisonment “minimum term of one year” is added.</p>
<p>Section 327- Voluntarily causing hurt to extort property, or to constrain to an illegal act.</p> <p>Section 329- Voluntarily causing grievous hurt to extort property, or to constrain to an illegal act</p>	<p>Section 119- Voluntarily causing hurt or grievous hurt to extort property, or to constrain to an illegal act</p>	<p>Section 119 now collectively deals with different aspects under its various sub-sections. The new provision corresponds to the old provision as follows –</p> <p>Section 327 of the IPC is now under Section 119 (1) of the BNS. Section 329 of the IPC is now under Section 119 (2) of the BNS.</p>

<p>Section 330- Voluntarily causing hurt to extort confession, or to compel restoration of property.</p> <p>Section 331- Voluntarily causing grievous hurt to extort</p>	<p>Section 120- Voluntarily causing hurt or grievous hurt to extort confession, or to compel restoration of property</p>	<p>Section 118 now collectively deals with different aspects under its various sub-sections. The new provision corresponds to the old provision as follows –</p> <p>Section 330 of the IPC</p>
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<p>confession, or to compel restoration of property</p>		<p>is now under Section 120 (1) of the BNS. Section 331 of the IPC is now under Section 120 (2) of the BNS.</p>
<p>Section 340- Wrongful confinement</p>	<p>Section 127- Wrongful confinement</p>	<p>Section 127 now collectively deals with different aspects under its various sub-sections. The new provision corresponds to the old provision as follows –</p> <p>Section 340 of the IPC is now under Section 127 (1) of the BNS.</p>

Section 342 of the IPC is now under Section 127 (2) of the BNS. The amount of fine has been changed to “five thousand rupees” from “one thousand rupees”.

Section 343 of the IPC is now under Section 127 (3) of the BNS. The word “fine” has been changed to “fine which may extend to ten thousand rupees”.

Section 344 of the IPC is now under Section 127 (4) of the BNS. The word “fine” has been changed to “fine which shall not be less than ten thousand rupees”.

		<p>Section 345 of the IPC is now under Section 127 (5) of the BNS. The words “and shall also be liable to fine” are added at the end of the section.</p> <p>Section 346 of the IPC is now under Section 127 (6) of the BNS. The term of imprisonment has been changed to “three years” from “two years”. The words “and shall also be liable to fine” are added at the end of the section.</p>
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Section 347 of the IPC
is now under Section
127 (7) of the BNS.
Section 348 of the IPC
is now under Section
127 (8) of the BNS.

Key Highlights on Bharatiya Nagarik Suraksha Sanhita, 2023

1. Replacement of Code of Criminal Procedure (CrPC), 1973:

- The BNSS, 2023, replaces the existing Code of Criminal Procedure.

2. Expansion of Definitions:

- BNSS introduces new definitions for terms like 'audio-video electronic means', 'bail', and 'victim' to accommodate technological advancements and streamline legal procedures.

3. Clarification on Special Acts:

- An explanation is added to clarify that provisions of special acts supersede conflicting BNSS provisions.

4. Uniformity in Judicial Structure:

- Judicial magistrate and assistant session judge posts are abolished to standardize court classifications, resulting in four types of judges.

5. Authorization for Special Executive Magistrate:

- State governments can appoint police officers as Special Executive Magistrates under section 15.

6. Central Government Appointment of Public Prosecutor:

- The Central Government is empowered to appoint Public Prosecutors for prosecution before the Delhi High Court.

7. Notice Requirement for Assistant Public Prosecutor Appointment:

- District Magistrates must give 14 days' notice to the State Government before appointing Assistant Public Prosecutors.

8. Establishment of Directorate of Prosecution:

- BNSS establishes a Directorate of Prosecution with defined functions and authorities.

9. Increased Fine Limits and Introduction of Community Service:

- Magistrates are authorized to impose higher fines and introduce community service as a form of sentence.

10. Concurrent or Consecutive Sentences:

- Courts can order punishments to run concurrently or consecutively based on the gravity of offences.

11. Protection of Aged and Infirm Persons:

- Arrest protection is extended to persons above 60 years or infirm, and witnesses above 60 or with acute illness.

12. Designated Police Officers for Public Information:

- Each district and police station must designate a police officer to provide public information about arrested persons.

13. Mandatory Production of Arrested Persons:

- Private individuals making arrests must produce the arrested person within six hours before a police officer or take them to the nearest police station.

14. Use of Handcuffs for Repeat Offenders:

- Handcuffs can be used for habitual or repeat offenders in serious offences during arrest.

15. Immediate Seizure of Offensive Weapons:

- Offensive weapons must be immediately seized after arrest.

16. Medical Examination Report Submission:

- Medical practitioners must promptly forward examination reports of arrested persons to the investigating officer.

17. Additional Medical Examination in Police Custody:

- Provision for additional medical examination of arrested persons in police custody is included.

18. Technology Compatibility for Summons:

- Summons can be issued and served electronically, with provisions for maintaining electronic records.

19. Gender Neutrality in Service of Summons:

- Women are included as adult family members for summons service, replacing the previous reference to 'adult male member'.

20. Duty to Inform Designated Police Officer:

- Police officers making arrests under warrants must promptly inform designated officers and officers in the arrested person's home district.

COMPARATIVE ANALYSIS OF CrPC, 1973 WITH BHARTIYA NAGRIK SURAKSHA SANHITA, 2023

OLD PREAMBLE	NEW PREAMBLE	CHANGES
An Act to consolidate and amend the law relating to Criminal Procedure.	An Act to consolidate and amend the law relating to Criminal Procedure.	No such change.
CHAPTER I - Preliminary		
OLD SECTION (CRPC, 1973)	NEW SECTION (BNSS, 2023)	CHANGES
1(1). Short title, extent and commencement—	1(1). Short title, extent and commencement	Title of the Act has changed from “ Code of Criminal Procedure, 1973 ” to “ <i>Bharatiya Nagrik Suraksha Sanhita, 2023.</i> ” Earlier the provisions of Chapter VIII, X, XI of CRPC, 1973 were applicable to State of Nagaland and Tribal Areas, now chapters <i>IX, XI and XII are applicable to State of Nagaland and Tribal Areas.</i>

Chapter II- Constitution of Criminal Courts and officers

6. Classes of Criminal Courts	6. Classes of Criminal Courts	<p>No change in section number.</p> <p>Earlier the words <i>“other than this code”</i> were used, now the words <i>“other than this Sanhita”</i> are used in section 6 of BNSS, 2023.</p>
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Chapter III-Power of Courts

26. Courts by which offences are triable	21. Courts by which offences are triable	<p>Section 26 of CRPC, 1973 is changed to section 21 of BNSS, 2023.</p> <p>Sections 64, 65, 66, 67, 68, 69, 70 71 of BNS, 2023 are mentioned in section 21(a)(iii) of BNSS, 2023.</p> <table border="1" data-bbox="1226 1133 1740 1474"> <thead> <tr> <th>IPC</th> <th>BNS</th> </tr> </thead> <tbody> <tr> <td>376(1)and (2)</td> <td>64</td> </tr> <tr> <td>376(3)</td> <td>65</td> </tr> <tr> <td>376AB</td> <td>65(2)</td> </tr> <tr> <td>376A</td> <td>66</td> </tr> <tr> <td>376B</td> <td>67</td> </tr> </tbody> </table>	IPC	BNS	376(1)and (2)	64	376(3)	65	376AB	65(2)	376A	66	376B	67
IPC	BNS													
376(1)and (2)	64													
376(3)	65													
376AB	65(2)													
376A	66													
376B	67													

		376C	68
		-	69
		376D, 376DA,376DB	70(1) 70(2)
		376E	71
27. Jurisdiction in case of juveniles.	There is no provision of “Jurisdiction in case of juveniles”.	-	
28. Sentence which High Court and Court of Session may pass.	22. Sentence which High Court and Court of Session may pass.	Section 28 of CRPC, 1973 is changed to section 22 of BNSS, 2023.	

<p>29. Sentences which Magistrates may pass</p>	<p>23. Sentences which Magistrates may pass</p>	<p>Section 29 of CRPC, 1973 is changed to section 23 of BNSS, 2023.</p> <p>23(2)-The Court of Magistrate of first class may pass a sentence of imprisonment for a term not exceeding three years, or fine not exceeding Rs. 50000 or of both, or of community service.</p> <p>The amount of fine has changed from Rs. 10000 to 50000.</p> <p>23(3)-The Court of Magistrate of class may pass a sentence of imprisonment for a term not exceeding one year or fine not exceeding Rs. 10000 or of both, or of community service.</p> <p>The amount of fine has changed from Rs. 5000 to 10000.</p> <p>Explanation- “Community service” shall mean the work which the Court may order a convict to perform as a form of punishment that the community for which he shall not be entitled to any remuneration.</p>
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<p>30. Sentence of imprisonment in default of fine.</p>	<p>24. Sentence of imprisonment in default of fine.</p>	<p>Section 30 of CRPC, 1973 is changed to section 24 of BNSS, 2023.</p>
<p>Chapter V-Arrest of persons</p>		
<p>41. When police may arrest without warrant.</p>	<p>35. When police may arrest them without a warrant.</p>	<p>Section 41 of CRPC, 1973 is changed to section 35(1) and (2) of BNSS, 2023.</p> <p>There has been rearrangement of sub-section 35.</p> <p>Sub-section (7) has been inserted to section 35 of BNSS, 2023.</p>
<p>41C. Control room at districts.</p>	<p>37. Designated Police Officer.</p>	<p>Section 41C of CRPC, 1973 is changed to section 37 of BNSS, 2023.</p> <p>The marginal heading of section is changed from “<i>Control room at districts</i>” to “<i>Designated Police officer</i>”.</p> <p>The words “<i>designate a police officer in every</i></p>

		<p><i>district and in every police station, not below the rank of Assistant Sub-Inspector of Police who shall be responsible for maintaining the information about the names and addresses of the persons arrested, nature of the offence with which charged, which shall be prominently displayed in any manner including in digital mode in every police station and at the district headquarters.”</i> are mentioned in section 37(b) of BNSS, 2023.</p> <p>Section 41 C (2) and (3) of CRPC, 1973 is omitted.</p>
43. Arrest by private person and procedure on such arrest.	40.Arrest by private person and procedure on such arrest.	<p>Section 43 of CRPC, 1973 is changed to section 40 of BNSS, 2023.</p> <p>The words “<i>but within six hours from such arrest,</i>” appearing before the words “without unnecessary details” are added in section 40(1) of BNSS, 2023.</p>
44. Arrest by Magistrate.	41.Arrest by Magistrate.	<p>Section 44 of CRPC, 1973 is changed to section.</p> <p>41 of BNSS, 2023.</p>

<p>45. Protection of members of armed forces from arrest.</p>	<p>42. Protection of members of Armed forces from arrest.</p>	<p>Section 45 of CRPC, 1973 is changed to section42 of BNSS, 2023.</p> <p>Sections 35 and 39-41 of BNSS, 2023 are mentioned in section 42 of BNSS, 2023, instead of sections 41-44 of CRPC, 1973.</p>
<p>46. Arrest how made.</p>	<p>43. Arrest how made.</p> <p>Section 43(3) provides that the police officer may, keeping in view the nature and gravity of the offence, use handcuff while effecting the arrest of a person who is a habitual, repeat offender who escaped from custody, who has committed offence of organized crime, offence of terrorist act, drug related crime, or offence of illegal possession of arms and ammunition, murder,</p>	<p>Section 46 of CRPC, 1973 is changed to section43 of BNSS, 2023.</p> <p>Sub-section (3) is inserted to section 43 of BNSS,2023.</p>

	rape, acid attack, counterfeiting of coins and currency notes, human trafficking, sexual offences against children, offences against the State.	
47. Search of place entered by person	44. Search of place entered by person	Section 47 of CRPC, 1973 is changed to section
sought to be arrested.	person sought to be arrested.	44 of BNSS, 2023.

Chapter XI of CRPC, 1973 changed to Chapter XII of BNSS, 2023-Preventive action of the police.

149. Police to prevent cognizable offences	168. Police to prevent cognizable offences	Section 149 of CRPC, 1973 is changed to section. 168 of BNSS, 2023.
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150. Information of design to commit cognizable offences.	169. Information of design to commit cognizable offences.	Section 150 of CRPC, 1973 is changed to section 169 of BNSS, 2023.
151. Arrest to prevent the commission of cognizable offences	170. Arrest to prevent the commission of cognizable offences	Section 151 of CRPC, 1973 is changed to section 170 of BNSS, 2023.

152. Prevention of injury to public property.	171. Prevention of injury to public property.	Section 152 of CRPC, 1973 is changed to section 171 of BNSS, 2023.
	172. Persons bound to confirm to directions of police.	This is a newly added provision.

Chapter XII of CRPC, 1973 changed to Chapter XIII of BNSS, 2023-Information to the police and their powers to investigate.

154. Information in cognizable cases.	173. Information in cognizable cases.	<p>Section 154 of CRPC, 1973 is changed to section 173 of BNSS, 2023.</p> <p>There has been amendment in the old section as the words <i>“irrespective of the area where the offence is committed may be given orally or by electronic communication</i> and if given to an officer in charge of a police station—</p> <p>(i) <i>orally</i>, it shall be reduced to writing by him or under his direction, and be read over to the informant; and every such information, whether given in writing or reduced to writing as aforesaid, shall be signed by the person giving it;</p>
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		<p>(ii) <i>by electronic communication, it shall be taken on record by him on being signed within three days by the person giving it</i>”, are added in section 173(1).</p> <p>Sub-section (3) to section 173 has been inserted which was not present in the old section 154 of CRPC, 1973.</p>
<p>155. Information as to non-cognizable cases and investigation of such cases—</p>	<p>174. Information as to non-cognizable cases and investigation of such cases—</p> <p>174. (1)- When information is given to an officer in charge of a police station of the commission within the limits of such station of a non-cognizable offence, he shall</p>	<p>Section 155 of CRPC, 1973 is changed to section 174 of BNSS, 2023.</p> <p>The words <i>“forward the daily diary report of all such cases fortnightly to the Magistrate”</i> were added in section 174(1)(ii) of BNSS, 2023, which were not present in section 155(1) CRPC, 1973.</p>
	<p>enter or cause to be entered the substance of the information in a book to be kept by such</p>	

	<p>officer in such form as the State Government may prescribe in this behalf, and —</p> <p>(i) refer the informant to the Magistrate.</p> <p>(ii) forward the daily diary report of all such cases fortnightly to the Magistrate.</p>	
<p>156. Police officer’s power to investigate cognizable case.</p>	<p>175. Police officer’s power to investigate cognizable case.</p>	<p>Section 156 of CRPC, 1973 is changed to section 175 of BNSS, 2023.</p> <p>The words <i>“Provided that considering the nature and gravity of the offence, the Superintendent of Police may either himself investigate or require the Deputy Superintendent of Police to investigate the offence”</i>, which are in the form of a proviso are added to section 175(1), which were not present in earlier section 156(1) of CRPC, 1973.</p> <p>Section 175(3) of BNSS, 2023 which resembles section 156(3) has been amended which is as follows: -</p> <p>“Any Magistrate empowered under section 210 may, after considering the application supported by an affidavit made under sub-</p>

		section (4) of section 173, and after making such
		inquiry as he thinks necessary and submission made in this regard by the police officer, order such an investigation as above-mentioned.” Sub-section (4) has been inserted to section 175, which was not present in section 156 of CRPC, 1973.
157. Procedure for investigation	176. Procedure for investigation	Section 157 of CRPC, 1973 is changed to section 176 of BNSS, 2023. The words <i>“forward the daily diary report fortnightly to the Magistrate”</i> are added in section 176(2) of BNSS, 2023, which were not present in section 157(2) of CRPC, 1973. Sub-section (3) has been inserted to section 176 of BNSS, 2023.
158. Report how submitted.	177. Report how submitted.	Section 158 of CRPC, 1973 is changed to section 177 of BNSS, 2023.
159. Power to hold investigation or preliminary inquiry. —	178. Power to hold investigation or preliminary inquiry. —	Section 159 of CRPC, 1973 is changed to section 178 of BNSS, 2023.

<p>160. Police officer’s power to require attendance of witnesses.</p>	<p>179. Police officer’s power to require attendance of witnesses.</p>	<p>Section 160 of CRPC, 1973 is changed to section 179 of BNSS, 2023.</p> <p>The words <i>“person with acute illness”</i> are added to the proviso to section 179(1) of BNSS, 2023.</p> <p>The words <i>“Provided further that if such person is willing to attend the police station, such person may be permitted so to do.”</i> are added in the form of 2nd proviso to section 179(1) of BNSS, 2023.</p>		
<p>161. Examination of witnesses by police</p>	<p>180. Examination of witnesses by police</p>	<p>Section 161 of CRPC, 1973 is changed to section 180 of BNSS, 2023.</p> <p>Sections 64, 65,66, 67, 68, 69,70, 71, 74, 75,76, 77, 78, 79 and 124 of BNS, 2023 are mentioned in second proviso to section 180(3) of BNSS, 2023.</p> <table border="1" data-bbox="1228 1401 1696 1453"> <tr> <td data-bbox="1228 1401 1463 1453">IPC, 1860</td> <td data-bbox="1463 1401 1696 1453">BNS,2023</td> </tr> </table>	IPC, 1860	BNS,2023
IPC, 1860	BNS,2023			

		376(1)(2)	64
		376(3)	65
		376AB	65(2)
		376A	66
		376B	67
		376C	68
		-	69
		376D, 376 DA and DB	70(1) 70(2)
		376E	71
		354	74
		354A	75
		354B	76
		354C	77
		354D	78
		509	79
		326A, 326B	124(1), 124(2).
162. Statements to police not to be signed: Use of statements in evidence.	181. Statements to police not to be signed: Use of statements in evidence.	Section 162 of CRPC, 1973 is changed to section 181 of BNSS, 2023.	

		<p>Section 148 of BSA, 2023 is mentioned in proviso to section 181(1) of BNSS, 2023, instead of section 145 of IEA, 1872.</p> <p>Sections 26(a) of BSA, 2023 and 23(2) are mentioned in 181(2) of BNSS, 2023, instead of Section 32 and 27 of IEA, 1872.</p>
163. No inducement to be offered—	182. No inducement to be offered—	<p>Section 163 of CRPC, 1973 is changed to section 182 of BNSS, 2023</p> <p>Section 22 of BSA, 2023 has been mentioned instead of section 24 of IEA, 1872.</p>
164. Recording of confessions and statements. —	183. Recording of confessions and statements. —	<p>Section 164 of CRPC, 1973 is changed to section 183 of BNSS, 2023.</p> <p>The words <i>“Any Magistrate of the district in which the information about commission of any offence has been registered”</i> are added to</p>
		<p>section 183(1).</p> <p>The proviso to section 183(1) of BNSS, 2023 provides that confession <i>or statement may also be recorded by audio-video electronic means in the presence of an Advocate of the</i></p>

person accused of an offence.

Section 183(4) of BNSS, 2023, mentions section 316 of BNSS, 2023, instead of section 281 of CRPC, 1973.

183(6a)-mentions sections 64, 65, 66, 67, 68, 69,70, 71, 74, 75, 76, 77, 78, 79 or 124 of BNS, 2023.

IPC	BNS
376(1) and (2)	64
376(3), 376AB	65 65(2)
376A	66
376B	67
376C	68
-	69
376D, 376 DA and 376 DB	70(1) 70(2)

		376E	71	
		354	74	
		354A	75	
		354B	76	
		354C	77	
		354D	78	
		509	79	
		326A, 326B	124(1), 124(2).	
		<p>The words <i>“such statement shall, as far as practicable, be recorded by a woman Magistrate and in her absence by a male Magistrate in the presence of a woman”</i> are added in the proviso to section 183(6)(a).</p> <p>The words <i>“Provided further that in cases relating to the offences punishable with imprisonment for ten years or more or</i></p>		

		<p><i>imprisonment for life or with death, the Magistrate shall record the statement of the witness brought before him by the police officer”</i> are added in the form of second proviso to section 183(6)(a).</p> <p>The words <i>“recorded through audio-video electronic means preferably cell phone”</i> are</p>
		<p>added in the fourth proviso to section 183(6) (a).</p> <p>Section 142 of BSA, 2023 is mentioned in section 183(6)(b) of BNSS, 2023, instead of section 137 IEA, 1872.</p>
<p>164A. Medical examination of victim of rape.</p>	<p>184. Medical examination of victim of rape</p>	<p>Section 164A. of CRPC, 1973 is changed to section 184 of BNSS, 2023</p> <p>Section 184(6) of BNSS, 2023 provides that the registered medical practitioner shall <i>within a period of seven days forward the report to Investigating Officer.</i></p> <p>Note-Earlier no limit was provided under section 164A (6) CRPC, 1973.</p>

<p>165. Search by police officer</p>	<p>185. Search by police officer</p>	<p>Section 165 of CRPC, 1973 is changed to section 185 of BNSS, 2023.</p> <p>The words <i>“Provided that the search conducted under this section shall be recorded through audio-video electronic means preferably by mobile phone”</i> are added in the form of proviso to section 185(2).</p> <p>Section 185(5) of BNSS, 2023 provides that the <i>copies of any record made under sub-section (1) or sub-section (3) shall forthwith, but not</i></p>
		<p><i>later than forty-eight hours, be sent to the nearest Magistrate empowered to take cognizance of the offence.</i></p>
<p>166. When officer in charge of police station may require another to issue search warrant.</p>	<p>186. When officer in charge of police station may require another to issue search warrant.</p>	<p>Section 166 of CRPC, 1973 is changed to section 186 of BNSS, 2023.</p>
<p>166A. Letter of request to competent authority for investigation in a country or place outside India.</p>	<p>112. Letter of request to competent authority for investigation in a country or</p>	<p>Section 166A of CRPC, 1973 is changed to section 112 of BNSS, 2023.</p>

	place outside India.	
166B. Letter of request from a country or place outside India to a Court or an authority for investigation in India.	113. Letter of request to competent authority for investigation in a country or place outside India.	Section 166B of CRPC, 1973 is changed to section 113 of BNSS, 2023.
167. Procedure when investigation cannot be completed in 24 hours.	187. Procedure when investigation cannot be completed in 24 hours.	Section 167 of CRPC, 1973 is changed to section 187 of BNSS, 2023. There has been an amendment in section 167(2) of CRPC, 1973 and now section 187(2) of BNSS, 2023 provides that <i>“The Judicial Magistrate to whom an accused person is forwarded under this section may, irrespective of whether he has or has no jurisdiction to try the case, after taking into consideration the status of the accused person as to whether he is not released on bail or his bail has not been cancelled, authorize, from time to</i>

		<p><i>time, the detention of the accused in such custody as such Magistrate thinks fit, for a term not exceeding fifteen days in the whole, or in parts, at any time during the initial forty days or sixty days out of detention period of sixty days or ninety days, as the case may be, as provided in sub-section (3), and if he has no jurisdiction to try the case or commit it for trial, and considers further detention unnecessary, he may order the accused to be forwarded to a Judicial Magistrate having such jurisdiction”.</i></p> <p>Section 167(2)(b)(c) of CRPC, 1973 is now 187(4) and (5) of BNSS, 2023.</p> <p>The words “Provided further that no person shall be detained otherwise than in police station under police custody or in prison under Judicial custody or place declared as prison by the Central Government or the State Government” are added in the form of second proviso to 187(5).</p>
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168. Report of investigation by subordinate police officer.	188. Report of investigation by subordinate police officer.	Section 168 of CRPC, 1973 is changed to section. 188 of BNSS, 2023.
169. Release of accused when evidence deficient.	189. Release of accused when evidence deficient.	Section 169 of CRPC, 1973 is changed to section. 189 of BNSS, 2023.
170. Cases to be sent to Magistrate,	190. Cases to be sent to	Section 170 of CRPC, 1973 is changed to section
when evidence is sufficient.	Magistrate, when evidence is sufficient.	190 of BNSS, 2023. <i>The words “Provided that if the accused is not in custody, the police officer shall take security from such person for his appearance before the Magistrate and the Magistrate to whom such report is forwarded shall not refuse to accept the same on the ground that the accused is not taken in custody” are added in the form of proviso to section 190(1).</i>
171. Complainant and witnesses not to be required to accompany police officer and not to be subjected to restraint.	191. Complainant and witnesses not to be required to accompany police officer and	Section 171 of CRPC, 1973 is changed to section 191 of BNSS, 2023.

	not to be subjected to restraint.	
172. Diary of proceedings in investigation	192. Diary of proceedings in investigation	Section 172 of CRPC, 1973 is changed to section 192 of BNSS, 2023. There has been rearrangement of sub-sections. Section 148 or 164 of BSA, 2023 is mentioned in section 192(5) of BNSS, 2023, instead of sections 145 or 161 of IEA, 1872.
173. Report of police officer on completion of investigation.	193. Report of police officer on completion of investigation.	Section 173 of CRPC, 1973 is changed to section 193 of BNSS, 2023. Section 193(2) provides that the investigation in relation to an offence under sections 64, 65, 66,

67, 68, 70, 71 of the Bharatiya Nyaya Sanhita, 2023 or under sections 4, 6, 8 or section 10 of the Protection of Children from Sexual Offences Act, 2012 shall be completed within two months from the date on which the information was recorded by the officer in charge of the police station.

IPC, 1860	BNS, 2023
376(1) and (2)	64
376(3), 376AB	65 65(2)
376A	66
376B	67
376C	68
376D 376DA, 376DB	70 70(2)
376E	71

Section 193(i) (h) mentions sections 64, 65, 66, 67, 68 or 70 of BNS, 2023.

Section 193 (3) (ii) of BNSS, 2023, provides that

		<p><i>“the police officer shall, within a period of ninety days, inform the progress of the investigation by any means including electronic communication to the informant or the victim.”</i></p> <p>Section 193(8) provides that “Subject to the provisions contained in sub-section (7), the police officer investigating the case shall also submit such number of copies of the police report along with other documents duly indexed to the Judicial Magistrate for supply to the accused as required under section 230:</p> <p>Provided that supply of report and other documents by electronic communication shall be considered as duly served.”</p> <p>The provision of further investigation as per BNSS, 2023 is section 193(9) instead of section 173(8), CRPC, 1973.</p> <p>The words “<i>Provided that further investigation</i></p>
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		<i>during the trial may be permitted with the permission of the Court trying the case and the same shall be completed within a period of ninety days which may extend with the permission of the Court.”</i> are added in the form of proviso to section 193(9).
174. Police to enquire and report on suicide, etc.	194. Police to enquire and report on suicide, etc.	Section 174 of CRPC, 1973 is changed to section. 194 of BNSS, 2023.
		<i>The inquest report has to forwarded to District Magistrate or Sub-Divisional Magistrate within 24 hours</i> as mentioned under section 194(2) of BNSS, 2023.
175. Power to summon persons.	195. Power to summon persons.	Section 175 of CRPC, 1973 is changed to section 195 of BNSS, 2023.

		<p>The words <i>“Provided that no male person under the age of fifteen years or above the age of sixty years or a woman or a mentally or physically disabled person or a person with acute illness shall be required to attend at any place other than the place where such person resides, unless such person is willing to attend and answer at the police station or at any other place within the limits of such police station”</i> are added in the form of 1st proviso to section 195 of BNSS, 2023.</p> <p>The words <i>“Provided further that if such is willing to attend and answer at the police station, such person may be permitted so to do.”</i> are added in the form of second proviso to section 195(1) of BNSS, 2023.</p>
<p>176. Inquiry by Magistrate into cause of death.</p>	<p>196. Inquiry by Magistrate into cause of death.</p>	<p>Section 176 of CRPC is changed to section 196 of BNSS, 2023.</p>

Chapter XIII of CRPC, 1973 changed to Chapter XIV of BNSS, 2023-Jurisdiction of the Criminal Courts in inquiries and trials

<p>182. Offences committed by letters etc.</p>	<p>202. Offences committed by means of electronic communications, letters etc.</p>	<p>Section 182 of CRPC, 1973 is changed to section 202 of BNSS, 2023.</p> <p>The words “<i>electronic communication</i>” are added in section 202.</p> <p>Section 82 of BNS, 2023 has been mentioned in section 202(2) of BNSS 2023, instead of sections 494 or 495 of IPC, 1860.</p>
<p>188. Offence committed outside India.</p>	<p>208. Offence committed outside India.</p>	<p>Section 188 of CRPC, 1973 is changed to section 208 of BNSS, 2023</p> <p>The words “<i>where offence is registered in India</i>” are added to section 208(b).</p>
<p>189. Receipt of evidence relating to offences committed outside India.</p>	<p>209. Receipt of evidence relating to offences committed</p>	<p>Section 189 of CRPC, 1973 is changed to section 209 of BNSS, 2023.</p>

	outside India.	
		The words “ <i>either in physical form or electronic form</i> ” are added to section 209.

Conclusion:

The enactment of new criminal laws marks a significant milestone in the evolution of India's legal framework, reflecting the intricate relationship between the state and its citizens. Criminal law, with its dual promise of safety and the potential for destruction, stands as a fundamental expression of justice and societal order. However, the true test of these new laws lies in their ability to meet the evolving needs of society and uphold constitutional values.

Home Minister Amit Shah's initiative to reform Indian criminal law echoes the sentiments of past reformers who recognized the imperfections and obsolescence of colonial-era statutes. While the Indian Penal Code (IPC) of 1860 was revolutionary in its time, the need for revision and modernization has become apparent with changing societal norms and values.

Suggestions for New Criminal Laws:

1. **Precision and Comprehensibility:** - The new criminal laws should strive for clarity and precision in defining offenses and establishing legal principles. Simplifying complex legal language and ensuring consistency in terminology can enhance accessibility and understanding.

2. **Alignment with Constitutional Vision:** - It is imperative that the new criminal laws align with the constitutional vision of justice, equality, and human rights. Emphasizing principles such as due process, proportionality of punishment, and protection of individual liberties can ensure that the laws reflect constitutional ideals.

3. **Modernization and Relevance:** - The new criminal laws should address contemporary challenges and societal concerns, including issues related to gender equality, hate speech, and freedom of expression. Updating archaic provisions and eliminating outdated concepts can enhance the relevance and effectiveness of the legal framework.

4. **Fairness and Equity:** - Ensuring fairness and equity in the administration of criminal justice should be a priority. Gender-neutral provisions, protection of marginalized communities, and safeguards against misuse of legal provisions are essential to uphold principles of justice and equality before the law.

5. **Evidence-based Policy:** - Policymaking in criminal law should be evidence-based and guided by empirical research and expert analysis. Prioritizing forensic investigations, enhancing procedural safeguards, and promoting accused-centric approaches can improve the effectiveness and integrity of the criminal justice system.

In conclusion, the reform of criminal laws in India represents a critical opportunity to strengthen the foundations of justice and uphold the rights and dignity of all individuals. By embracing principles of modernization, fairness, and constitutionalism, India can pave the way for a more just and equitable society.

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Statutes

- a) The Indian Penal Code, 1860
Title: The Indian Penal Code, 1860
Act No.: 45 of 1860
- b) The Code of Criminal Procedure, 1973
Title: The Code of Criminal Procedure, 1973
Act No.: 2 of 1974
- c) The Indian Evidence Act, 1872

Title: The Indian Evidence Act, 1872

Act No.: 1 of 1872

- d) Bhartiya Nyaya Sanhita, 2023
- e) Bhartiya Nagrik Suraksha Sanhita, 2023