



Original Article

COMPARATIVE ANALYSIS OF IPC AND BNS IN FORENSIC
MEDICINE: A REVIEW

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Abstract:

The Indian Penal Code, a reflection of British criminal law, was originally designed to exert control over and punish rather than protect Indian citizens. Recognizing the need for legal reform to align with contemporary societal values, the Union Government of India has initiated a series of amendments. The Minister of Home Affairs presented three bills in the Lok Sabha aimed at replacing outdated colonial-era laws: the Bharatiya Nyaya Sanhita Bill 2023, Bharatiya Nagarika Suraksha Sanhita Bill 2023, and Bharatiya Sakshya Bill 2023, which target the IPC 1860, CrPC 1973, and Indian Evidence Act 1872 respectively^[1]. The introduction of the Bharatiya Nyaya Sanhita (BNS) of 2023 seeks to address these issues and introduce crucial amendments to better serve the Indian populace. Over time, the Indian Penal Code (IPC) has undergone amendments to introduce new offences, modify existing ones, and adjust punishment severity. Courts have also decriminalized certain acts, such as consensual intercourse between same-sex adults, adultery, and attempted suicide. Additionally, several states have made amendments to the IPC, prescribing varying punishments for offences like sexual crimes, trafficking minors for prostitution, food and drug adulteration, and desecration of religious texts. Various Law Commission reports have suggested IPC amendments, covering areas such as crimes against women, food adulteration, and the use of the death penalty. Comparing the Bharatiya Nyaya Sanhita (BNS) and the Indian Penal Code (IPC) in the context of forensic medicine involves examining how each legal framework addresses the collection, handling, and use of forensic evidence in criminal investigations and trials.

Keywords: Bharatiya Nyaya Sanhita, Indian Penal Code, Offences, Punishment

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Aim and Objectives:

1. To identify the differences and similarities between BNS and IPC in the context of forensic medicine.
2. To review and analyze the specific sections of the BNS and IPC that pertain to forensic medicine.

Introduction:

BNS 2023:

The *Bharatiya Nyaya Sanhita* (BNS) replaces the IPC. It largely retains the provisions of the IPC, adds some new offences, removes offences that have been struck down by courts, and increases penalties for several offences^[2].

Introduction and pass of bill^[3]-

- First introduced:- 11 August 2023
- Second introduction after incorporating recommendation:-12 December 2023
- Passed:- 25 December 2023
- Come in force:- 1 July 2024

Changes and Features:

Key changes in the BNS include^[4-6]:

- 1. Offences against the body:** The IPC criminalises acts such as murder, abetment of suicide, assault and causing grievous hurt. The BNS retains these provisions. It adds new offences such as organised crime, terrorism, and murder or grievous hurt by a group on certain grounds.
- 2. Sexual offences against women:** The IPC criminalises acts such as rape, voyeurism, stalking and insulting the modesty of a woman. The BNS retains these provisions. It

increases the threshold for the victim to be classified as a major, in the case of gangrape, from 16 to 18 years of age. It also criminalises sexual intercourse with a woman by deceitful means or making false promises.

3. Sedition: The BNS removes the offence of sedition. It instead penalises the following:

- a. Exciting or attempting to excite secession, armed rebellion, or subversive activities,
- b. Encouraging feelings of separatist activities, or
- c. Endangering the sovereignty or unity and integrity of India. These offences may involve exchange of words or signs, electronic communication, or use of financial means.

4. Terrorism: The BNS defines terrorism as an act that intends to:

- a. Threaten the unity, integrity, and security of the country,
- b. Intimidate the general public, or
- c. Disturb public order.

Punishment for attempting or committing terrorism includes:

- a. Death or life imprisonment and a fine of Rs 10 lakh, if it results in death of a person, or
- b. Imprisonment between five years and life, and a fine of at least five lakh rupees.

5. Organised crime: Organised crime includes offences such as kidnapping, extortion, contract killing, land grabbing, financial scams, and cybercrime carried out on behalf of a crime syndicate. Attempting



or committing organised crime will be punishable with:

- a. Death or life imprisonment and a fine of Rs 10 lakh, if it results in death of a person, or
- b. Imprisonment between five years and life, and a fine of at least five lakh rupees.

6. Mob lynching: The BNS adds murder or grievous hurt by five or more people on specified grounds, as an offence. These grounds include race, caste, sex, language, or personal belief. The punishment for such murder is a minimum of seven years imprisonment to life imprisonment or death.

7. Rulings of the Supreme Court: The BNS conforms to some decisions of the Supreme Court. These include omitting adultery as an offence and adding life imprisonment as one of the penalties (in addition to the death penalty) for murder or attempt to murder by a life convict.

Structure of The Bhartiya Nyaya Sanhita, 2023^[7]:

The *Bharatiya Nyaya Sanhita* is subdivided into 20 chapters consisting of 358 clauses. The structure of the code is similar to the Indian Penal Code. The outline of Chapters, Clauses & offences are as follow-

Chapters	Clauses	Content of Chapter
Chapter 1	Clauses 1 to 3	Preliminary
Chapter 2	Clauses 4 to 13	Of punishments
Chapter 3	Clauses 14 to 44	General exceptions <ul style="list-style-type: none">• Of the Right to Private defence (Sections 34 to 44)
Chapter 4	Clauses 45 to 62	Of abetment, criminal conspiracy and attempt
Chapter 5	Clauses 63 to 99	Of offence against women and children <ul style="list-style-type: none">• Of sexual offences (Sections 63 to 79)• Of offences relating to marriage (Sections 80 to 87)• Of causing miscarriage, etc. (Sections 88 to 92)• Of offences against child (Sections 93 to 99)
Chapter 6	Clauses 100 to 146	Of offences affecting the human body <ul style="list-style-type: none">• Of offences affecting life (Sections 100 to 113)• Of hurt (Sections 114 to 125)• Of wrongful restraint and wrongful confinement (Sections 126 to 127)• Of criminal force and assault (Sections 128 to 146)
Chapter 7	Clauses 147 to 158	Of offences against the state
Chapter 8	Clauses 159 to 168	Of offences relating to the army, navy and air force
Chapter 9	Clauses 169 to 177	Of offences relating to elections
Chapter 11	Clauses 189 to 197	Of offences relating to coin, currency-notes, bank-notes, and government stamps
Chapter 12	Clauses 198 to 205	Of offences by or relating to public servants
Chapter 13	Clauses 206 to 226	Of contempts of the lawful authority of public servants



Chapter 14	Clauses 227 to 269	Of false evidence and offences against public justice
Chapter 15	Clauses 270 to 297	Of offences affecting the public health, safety, convenience, decency and morals
Chapter 16	Clauses 296 to 302	Of offences relating to religion
Chapter 17	Clauses 303 to 334	Of offences against property <ul style="list-style-type: none"> • Of theft (Sections 303 to 307) • Of extortion (Sections 308) • Of robbery and dacoity (Sections 309 to 313) • Of criminal misappropriation of property (Sections 314 to 316) • Of receiving stolen property (Sections 317 to 319) • Of fraudulent deeds and dispositions of property (Sections 320 to 323) • Of mischief (Sections 324 to 328) • Of criminal trespass (Sections 329 to 334)
Chapter 18	Clauses 335 to 350	Of offences relating to documents and to property marks <ul style="list-style-type: none"> • Of Documents (Sections 335 to 344) • Of property marks (Sections 345 to 350)
Chapter 19	Clauses 349 to 357	Of criminal intimidation, insult, annoyance, defamation, etc. <ul style="list-style-type: none"> • Of criminal intimidation, insult, annoyance (Sections 349 to 355) • Of defamation (Sections 356) • Of breach of contract to attend on and supply wants of helpless person (Sections 357)
Chapter 20	Clauses 358	Repeal and savings

Indian Penal Code, 1860		Bharatiya Nyaya Sanhita, 2023	
Section	Heading	Section	Punishment
82	Act of a child under seven years of age(Age of criminal responsibility in India)	20	Not changed
83	Act of a child 7 -12 years of age immature understanding	21	Not changed
84	Act of a person of unsound mind (Criminal responsibility of mental ill)	22	Not changed
85	Act of a person intoxicated involuntarily (Not responsible)	23	Not changed
86	Offence requiring a particular intent or knowledge committed by one who is intoxicated (Act of a voluntarily intoxicated	24	Not changed



	person)		
87	Act not intended and not known to be likely to cause death or grievous hurt, done by consent	25	Not changed
88	Act not intended to cause death, done by consent in good faith for person's benefit	26	Not changed
89	Act done in good faith for benefit of child or insane person, by or by consent of guardian	27	Not changed
90	Consent known to be given under fear or misconception	28	Not changed
92	Act done in good faith for benefit of a person without consent	30	Not changed
166B	Punishment for non-treatment of victim	200	Not changed
174	Non-attendance in obedience to an order from public servant	208	Changed
176	Omission to give notice or information to public servant by person legally bound to give it	211	Changed
177	Furnishing false information	121	Changed
191	Giving false evidence	227	Not changed
192	Fabricating false evidence	228	Not changed
193	Punishment for false evidence	229	Changed
197	Issuing or signing false certificate	234	Not Changed
201	Causing disappearance of evidence of offence, or giving false information to screen offender	238	Not changed
202	Intentional omission to give information of offence by person bound to inform	239	Not changed
204	Destruction of document or electronic record to prevent its production as evidence	241	Changed
228A	Disclosure of identity of the victim of certain offences, etc.	72	Not Changed
284	Negligent conduct with respect to poisonous substance	286	Changed
299	Culpable homicide	100	Not Changed
300	Murder	101	Changed
302	Punishment for murder	103	Changed
303	Punishment for murder by life convict	104	Changed
304	Punishment for culpable homicide not amounting to murder	105	Changed
304A	Causing death by negligence	106	Changed
304B	Dowry death	80	Not changed
305	Abetment of suicide of child or insane person	107	Changed
306	Abetment of suicide	108	Not changed
307	Attempt to murder	109	Not Changed
309	Attempt to commit suicide	226	Changed
312	Causing miscarriage	88	Not Changed
313	Causing miscarriage without woman's consent	89	Not changed
314	Death caused by act done with intent to cause miscarriage	90	Not Changed
315	Act done with intent to prevent child being born alive or to cause it to die after birth	91	Not Changed



316	Causing death of quick unborn	92	Not Changed
317	Exposure and abandonment of child under twelve years, by parent or person having care of it	93	Not Changed
318	Concealment of birth by secret disposal of dead body	94	Not changed
319	Hurt	114	Not changed
320	Grievous hurt	116	Not Changed
323	Punishment for voluntarily causing hurt	115(2)	Changed
324	Voluntarily causing hurt by dangerous weapons or means	118(1)	Changed
325	Punishment for voluntarily causing grievous hurt	117(2)	Not Changed
326	Voluntarily causing grievous hurt by dangerous weapons or means	118	Changed
326A	Voluntarily causing grievous hurt by use of acid, etc.	124(1)	Changed
326B	Voluntarily throwing or attempting to throw acid	124(2)	Not Changed
328	Causing hurt by means of poison, etc., with intent to commit an offence	123	Not Changed
337	Causing hurt by act endangering life or personal safety of others	125	Changed
338	Causing grievous hurt by act endangering life or personal safety of others	125	Changed
351	Assault	130	Not Changed
352	Punishment for assault or criminal force otherwise than on grave provocation	131	Changed
375	Rape	63	Changed
376	Punishment for rape	64	Changed
376A	Punishment for causing death or resulting in persistent vegetative state of victim	66	Changed
376AB	Punishment for rape on woman under twelve years of age	65(2)	Changed
376 B	Sexual intercourse by husband upon his wife during separation	67	Changed
376C	Sexual intercourse by a person in authority	68	Changed
376D	Gang rape	70	Changed
376DA	Punishment for gang rape on woman under sixteen years of age	70	-
376DB	Punishment for gang rape on woman under twelve years of age.	70	-
376E	Punishment for repeat offenders	71	Not Changed
377	Unnatural offences.	-	-
498	Enticing or taking away or detaining with criminal intent a married woman	84	Not Changed
498A	Husband or relative of husband of a woman subjecting her to cruelty	85	Not Changed
509	Word, gesture or act intended to insult the modesty of a	79	Not Changed



	woman		
510	Misconduct in public by a drunken person	355	Changed
290	Punishment for public nuisance in cases not otherwise provided for	292	Changed
294	Punishment for Obscene acts and songs	296	Changed
297	Trespassing on burial places, etc.	301	Not Changed

Discussion:

Comparing the *Bharatiya Nyaya Sanhita* (BNS) and the Indian Penal Code (IPC) in the context of forensic medicine involves examining how each legal framework addresses the collection, handling, and use of forensic evidence in criminal investigations and trials. Here are some key points of comparison:

1. Updated Legal Framework for Forensic Evidence:

BNS: The BNS is designed to modernize the legal framework, incorporating advancements in forensic science and technology. It aims to address contemporary challenges such as cybercrime, digital evidence, and more sophisticated forensic techniques.

IPC: The IPC, established in 1860, has been periodically amended but still reflects many outdated principles. While it provides a broad foundation, it lacks specific provisions addressing modern forensic science advancements and technology.

2. Procedural Standards:

BNS: Emphasizes updated and rigorous standards for forensic procedures, ensuring proper collection, preservation, and analysis of evidence. It aims to minimize the risks of contamination, tampering, and procedural errors through standardized protocols.

IPC: The IPC, complemented by the Criminal Procedure Code (CrPC), provides general guidelines for handling evidence but does not delve into detailed forensic procedures. The standards are less specific and may not fully address modern forensic methodologies.

3. Forensic Expertise and Laboratories:

BNS: Stresses the need for state-of-the-art forensic laboratories and continuous training for forensic experts. It outlines clear guidelines for the qualifications and recognition of forensic experts in legal proceedings.

IPC: Does not specifically address the infrastructure or expertise required for forensic analysis. The development and maintenance of forensic capabilities are handled through separate regulations and agencies.

4. Victim Protection and Sensitivity:

BNS: Emphasizes victim protection, especially during forensic examinations in sensitive cases like sexual assault. It aims to uphold the dignity and rights of victims throughout the forensic process.

IPC: Provides general protection for victims but lacks detailed procedural safeguards specific to forensic examinations. The focus on victim sensitivity in forensic contexts is less pronounced.



5. International Collaboration:

BNS: Recognizes the need for international cooperation in forensic science, proposing mechanisms for collaboration with global forensic bodies and law enforcement agencies.

IPC: Does not explicitly cover international collaboration in forensic matters. Such cooperation is typically managed through international treaties and agreements outside the scope of the IPC.

Conclusion:

The *Bharatiya Nyaya Sanhita* (BNS), proposed as a replacement for the Indian Penal Code (IPC), aims to modernize India's criminal justice system, including aspects related to forensic medicine. The BNS aims to provide a more comprehensive, modern, and detailed framework for incorporating forensic medicine into the legal system. It addresses contemporary challenges and ensures that forensic science is integrated with higher standards and relevance. In contrast, the IPC, while foundational, lacks the specificity and modernity needed to handle today's forensic science complexities effectively. So, Here's how forensic medicine is addressed and

improved in the BNS compared to the existing IPC framework.

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