

Bharatiya Nyaya Sanhita Bill, 2023

Why in news?

Recently, Bharatiya Nyaya Sanhita Bill 2023 was introduced in the Lok Sabha to replace Indian Penal Code (IPC), 1860.

What is IPC, 1860?

Lord Thomas Babington Macaulay is said to be the chief architect of codifications of criminal laws in India.

- **Origin-** It was enacted aftermath the Rebellion of 1857 which is the brainchild of Thomas Babington Macaulay.
- It was introduced by the British in 1860, making it the longest surviving code in the common law world.
- **Recommendation-** It was based on recommendations of the 1st Law Commission of India established in 1834 under the Charter Act of 1833.
- **Substantive law-** It is a law which defines
 - Rights and responsibilities in civil law
 - Crimes and punishments in criminal law
- **Punishments-** They are divided into 5 major sections.
 - Death
 - Imprisonment for life, general imprisonment
 - Forfeiture of property and fine

What are the key features of the Bill?

- **New provisions-** The bill includes offences related to organised crime and terrorism for the 1st time.

New Offences added in Bharatiya Nyaya Sanhita Bill

Organised crime

Petty organised crime

Offence if terrorist act

Acts endangering sovereignty,
unity, and integrity of India

Snatching

- **Punishment-**

- All types of gang rape -20 years of imprisonment or life imprisonment
- Rape of a minor - Death penalty
- Various offences have also been made gender neutral

- **Community service-** The bill proposes community work as a penalty for minor transgressions, which will be included for the first time in the penal code.

- This brings it closer to the US, where acts like vandalism, petit theft, and drunk driving are punished.

- **Mob lynching-** When a group of 5 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 ground, each member of such group shall be punished.

- **Criminalises sexual intercourse-** It is criminalised under the false pretext of marriage or by deceitful means (false promise of employment or promotion, inducement or marrying after suppressing one's identity).

- This is a notable change since IPC does not have an explicit clause dealing with instances of sexual intercourse based on a false promise of marriage

- **Adultery-** The provision for the offence of adultery has also been omitted.

- This is in line with the Supreme Court's ruling in *Joseph Shine v. Union of India, 2018* in which criminalization of adultery in IPC is held as unconstitutional.

- **Struck Section 377-** It does not include any punishment for unnatural sexual offences against men.

- It is in lines of *Navtej Singh Johar vs Union of India 2018* case.

- **Marital rape-** The provision legalising marital rape has been retained.

- The issue is currently pending in Supreme Court challenging the constitutional validity which provides exception to non-consensual matrimonial sex from the offence of rape.

What is the stand on offence of sedition?

The new Bill on IPC completely repeals the offence of sedition which is reflected in Section 124A of the IPC. The bill aims to give justice not punishment.

- **Offences against the State-** It criminalises acts which endangers sovereignty, unity and integrity of India.
- **Wider definition-** Section 150 criminalises aiding through financial means any acts of subversive activities or those encouraging feelings of separatist activities.
- This is a wider definition than that recommended by the 22nd Law Commission of India.
- **Enhanced punishment-** It is increased to 7 years imprisonment from the 3 years provided under Section 124A of the IPC

Committees for reform of Criminal Laws

- **Malimath committee-** It was formed in 2003 to bring reforms in the criminal justice system.
- The Committee recommended that the victim should be allowed to participate in cases involving serious crimes and also be given adequate compensation.
- **Justice Verma panel-** It was formed to ensure quicker trial and enhanced punishment for criminals accused of committing sexual assault against women. It submitted its report in 2013.
- **Ranbir Singh committee-** It was formed in 2020 to review three codes of criminal law
 - Indian Penal Code (IPC), 1860
 - Code of Criminal Procedure (CrPC), 1973 and
 - Indian Evidence Act, 1872

References

1. [The Hindu- Explained new bill to overhaul criminal laws](#)
2. [Indian Express- How IPC came into existence](#)
3. [PIB- Criminal justice bills](#)

