

# OAKRIDGE MUN 2023



# LOK SABHA

## BACKGROUND GUIDE

Discussing criminal laws in India with special emphasis to the Bharatiya Nyaya Sanhita, 2023.

## **Letter from EB**

Dear Parliamentarians,

Firstly, I welcome you all to the Lok Sabha simulation of OAKMUN 2023. We consider it as our privilege to serve on the executive board of India's one of the most prestigious conferences. We believe we have to respect the ordeals of nature and cooperate with the prevailing circumstances. The team of OAKMUN 2023 and the EB members are working incredibly hard to ensure that the quality and conduct of the conference does not diminish and hence we write this background guide to you hoping that it reaches you all and gives you the best possible guidance. The agendas selected are of pivotal importance in the country and something that is dominating the current affairs of the state. Note that this background guide is only a document that provides you limited guidance and a direction to pursue your research and not the whole and soul of the committee hence do not limit your research to the pages mentioned here in the background guide. It is with great importance I appeal that this background guide was collectively prepared by all the executive board members keeping in mind the diversity, the committee Lok Sabha compliments, hence this background guide is a compilation of various sources apart from the intellect of the executive board members and this document in no way reflects or represents the personal ideology of the Executive Board members or the members of the Secretariat of OAKMUN. Kindly review and read through this document keeping in mind the foundational principles of Indian Constitution and have a happy time researching. Looking forward to connecting with you all soon. Wishing you all the very best.

Yours sincerely,

**Ravivatsan – Speaker (ravisavipra23@gmail.com)**

**Sai Siddharth - Deputy Speaker**

**Naren Ayinala - Scribe**



# INTRODUCTION

Under colonial rule, India was governed by the laws made by the Britishers. This was for the convenience of the colonial empire and so that they could attain the objective of their ruling. The laws were stringent and harsh on Indians and criminalized many activities according to the English beliefs and legal system. Indian Penal Code (IPC) was formalized under the British Rule around 150 years ago. It specifies crimes and their punishments. Although the IPC is allegedly one of the strongest criminal laws and is extensive in its scope, the changing times have felt the requirement of revamping this old law and making it more relevant for modern democratic India. There have been many amendments over the years in the IPC, but there are many areas and provisions in this law that still need restructuring. Introducing certain amendments to the Indian Penal Code will ensure that the crimes that have evolved in recent times are also addressed. This should be done by keeping in mind democratic values and human rights.

## HISTORY OF THE INDIAN PENAL CODE

The first draft of the Indian Penal Code was prepared by the First Law Commission, chaired by Thomas Babington Macaulay. The draft was based on the simple codification of the law of England, while at the same time borrowing elements from the Napoleonic Code and Louisiana Civil Code of 1825.

The first draft of the Code was presented before the Governor-General in council in the year 1837, but subsequent revisions and amendments took two more decades. The complete drafting of the code was done in 1850 and presented to the Legislative Council in 1856. It was delayed being placed on the statute book of British India due to the Indian Revolt of 1857. The code came into force on January 1st, 1860 after undergoing many revisions and amendments by Barnes Peacock who would go on to serve as the first Chief Justice of the Calcutta High Court.



Before the advent of the British, the penal law prevailing in India, for the most part, was the Muhammedan law. For the first few years of its administration, the East India Company did not interfere with the criminal law of the country and although in 1772, during the administration of Warren Hastings, the Company for the first time interfered, and henceforth till 1861, from time to time, the British Government did alter the Muhammedan law, yet up to 1862, when the Indian Penal Code came into operation, the Muhammedan law was undoubtedly the basis of the criminal law excepting in the presidency towns. The epoch of the administration of Muslim criminal law in India extended for a considerable period and has even supplied many terms for the vocabulary of Indian law.

## STRUCTURE OF THE INDIAN PENAL CODE

The IPC in its various sections defines specific crimes and provides punishment for them. It is sub-divided into 23 chapters that comprise of 511 sections. The basic outline of the code is given in the table below:

<b>INDIAN PENAL CODE, 1860 (SECTIONS 1 TO 511)</b>		
Chapter	Sections covered	Classification of offences
Chapter I	Sections 1 to 5	Introduction
Chapter II	Sections 6 to 52	General Explanations
Chapter III	Section 53 to 75	Of Punishments
Chapter IV	Sections 76 to 106	General Exception of the Right of Private Defence (Sections 96 to 106)

## INDIAN PENAL CODE, 1860 (SECTIONS 1 TO 511)

Chapter	Sections covered	Classification of offences
Chapter V	Sections 107 to 120	Of Abetment
Chapter VA	Sections 120A to 120B	Criminal Conspiracy
Chapter VI	Section 121 to 130	Of Offences against the state
Chapter VII	Sections 131 to 140	Of Offences relating to Army, Navy and Airforce
Chapter VIII	Sections 141 to 160	Of Offences against the Public Tranquility
Chapter IX	Sections 161 to 171	Of Offences by or relating to Public Servants
Chapter IXA	Sections 171A to 171I	Of Offences Relating to Elections
Chapter X	Sections 172 to 190	Of Contempt of Lawful; Authority of Public Servants
Chapter XI	Sections 191 to 229	Of False Evidence and Offence against Public Justice
Chapter XII	Sections 230 to 263	Of Offences relating to coin and Government Stamps



## INDIAN PENAL CODE, 1860 (SECTIONS 1 TO 511)

Chapters	Sections covered	Classification of offences
Chapter XIII	Sections 264 to 267	Of Offences relating to Weight and Measures
Chapter XIV	Sections 268 to 294	Of Offences affecting the Public Health, Safety, Convenience, Decency and Morals
Chapter XV	Sections 295 to 298	Of Offences relating to religion
Chapter XVI	Sections 299 to 377	<p>Of Offences affecting the Human Body.</p> <ul style="list-style-type: none"><li>• Of Offences Affecting life including murder, culpable homicide (Sections 299 to 311)</li><li>• Of the Causing of Miscarriage, Of Injuries to Unborn Children, of the Exposure of Infants, and of the Concealment of Births (Sections 312 to 318)</li><li>• Of Hurt (Sections 319 to 338)</li></ul>

## INDIAN PENAL CODE, 1860 (SECTIONS 1 TO 511)

Chapters	Sections covered	Classification of offences
Chapter XVI	Sections 299 to 377	<ul style="list-style-type: none"><li>• Of Wrongful Restraint and Wrongful Confinement (Sections 339 to 348)</li><li>• Of Criminal Force and Assault (Sections 349 to 358)</li><li>• Of Kidnapping, Abduction, Slavery and Forced Labour (Sections 359 to 374)</li><li>• Sexual Offences including rape and Sodomy (Sections 375 to 377)</li></ul>
Chapter XVII	Sections 378 to 462	<p>Of Offences Against Property</p> <ul style="list-style-type: none"><li>• Of Theft (Sections 378 to 382)</li><li>• Of Extortion (Sections 383 to 389)</li><li>• Of Robbery and Dacoity (Sections 390 to 402)</li></ul>



## INDIAN PENAL CODE, 1860 (SECTIONS 1 TO 511)

Chapters	Sections covered	Classification of offences
Chapter XVII	Sections 378 to 462	<ul style="list-style-type: none"><li>• Of the Receiving of Stolen Property (Sections 410 to 414)</li><li>• Of Cheating (Section 415 to 420)</li><li>• Of Fraudulent Deeds and Disposition of Property (Sections 421 to 424)</li><li>• Of Mischief (Sections 425 to 440)</li><li>• Of Criminal Trespass (Sections 441 to 462)</li></ul>
Chapter XVIII	Sections 463 to 489 - E	<p>Offences relating to Documents and Property Marks</p> <ul style="list-style-type: none"><li>• Offences relating to Documents (Section 463 to 477-A)</li><li>• Offences relating to Property and Other Marks (Sections 478 to 489)</li></ul>



## INDIAN PENAL CODE, 1860 (SECTIONS 1 TO 511)

Chapters	Sections covered	Classification of offences
Chapter XVIII	Sections 463 to 489 - E	<ul style="list-style-type: none"><li>• Offences relating to Currency Notes and Bank Notes (Sections 489A to 489E))</li></ul>
Chapter XIX	Sections 490 to 492	Of the Criminal Breach of Contracts to Services
Chapter XX	Sections 493 to 498	Of Offences Relating to Marriage
Chapter XXA	Sections 498 A	Of Cruelty by Husband or Relatives of Husband
Chapter XXI	Sections 499 to 502	Of Defamation
Chapter XXII	Sections 503 to 510	Of Criminal intimidation, Insult or Annoyance
Chapter XXIII	Section 511	Of Attempts to Commit Offences



# NEED FOR AMENDMENTS TO INDIAN PENAL CODE, 1860 (IPC):

There are several criticisms of the IPC at various levels . Few of them have been included below:

**Cybercrime:** With the rapid increase in technology and the widespread use of the internet, there is a need to update the IPC to include provisions for cybercrime. The current provisions of the IPC do not adequately address offenses such as hacking, identity theft, and cyberbullying. **Sexual offenses:** Despite amendments to the IPC in the past to address sexual offenses, there is still a need for further changes.

**The punishment for sexual offenses:** Needs to be increased to serve as a deterrent.

**Hate crimes:** In recent years, there has been an increase in hate crimes in India, including crimes based on religion, caste, and gender.

The IPC needs to include specific provisions for hate crimes to ensure that the perpetrators are punished accordingly. **Corporate crimes:** The IPC needs to be amended to address corporate crimes such as fraud, embezzlement, and insider trading. These crimes have a significant impact on the economy and society as a whole, and there is a need to ensure that those responsible are held accountable.

**Child rights:** The IPC needs to be amended to protect the rights of children. There is a need to include specific provisions for offenses such as child trafficking, child pornography, and child labor. **Improved justice system:** Amendments to the IPC can help to improve the effectiveness of the justice system in India. This can be achieved by making the law more relevant to current times and societal norms, and by ensuring that the punishments for offenses are appropriate and serve as a deterrent. **Protection of vulnerable groups:** Amendments to the IPC that focus on protecting vulnerable groups such as children, women, and minorities can have a significant impact on their safety and well-being.



# NEED FOR AMENDMENTS TO INDIAN PENAL CODE, 1860 (IPC):

Improved corporate governance: Amendments to the IPC that address corporate crimes can help to improve corporate governance and prevent fraudulent practices, which can have a positive impact on the economy as a whole. Better international relations: Amendments to the IPC that address hate crimes can improve India's image on the international stage and foster better relations with other countries. The further demands are listed below..

- 1.A gender-neutral definition of rape is required. Section 375 of IPC does not include men, hijras, and boys as the victims of rape and only considers women as victims of rape.
- 2.Sedition under Section 124 A of the IPC was inserted by the Britishers in 1898 to control the uprisings against them and to suppress the freedom movements. However, in recent times this section is often misused against people who criticize the government.
- 3.Section 57: Life Imprisonment as a punishment is at the discretion of the court as to the number of years. It depends more on the nature of the crime that has been committed. But, when it comes to the calculation of fractions of punishment, it is fixed for 20 years. This takes away the discretionary power of a judge and differences arise upon choosing the approach of giving punishments.
- 4.Under Section 294, the act of annoying someone by performing any obscene act in public places is punishable. However, the word 'obscene' is not defined under the Act and this is often misused by the police.
- 5.The punishments provided under Chapter 3 are very conservative. It only provides for imprisonment or fine. There is no mention of community service or reforming the criminal in any way.



# PAST REPORTS ON CHANGES AMENDMENTS TO BE INCORPORATED IN CRIMINAL LAWS:

1. [Consultation Paper on Sedition](#)
2. [277th Report on Wrongful Prosecution \(Miscarriage of Justice\) Legal Remedies](#)
3. [276th Report on Legal Framework Gambling and Sports Betting Including Cricket in India](#)
4. [274th Report on Review of Contempt of Courts Act 1971](#)
5. [271st Report on Human DNA Profiling](#)
6. [268th Report on Amendments to Criminal Procedure Code 1973 provisions relating to bail corrigendum](#)
7. [268th Report on Amendments to Criminal Procedure Code 1973 provisions relating to bail](#)
8. [267th Report on Hate Speech](#)
9. [264th Report on The Criminal Law \(Amendment\) Bill, 2017 \(Provisions Dealing With Food Adulteration\)](#)
10. [262nd Report on the Death Penalty](#)
11. [254th Report on Prevention of Corruption \(Amendment\) Bill 2013](#)
12. [244th Report on Electoral Disqualifications](#)
13. [243rd Report on Section 498A IPC](#)
14. [242nd Report on Prevention of Interference with the Freedom of Matrimonial Alliances \(honour killings\)](#)
15. [241st Report on Passive Euthanasia A Relook](#)
16. [239th Report on Expeditious Investigation and Trial of Criminal Cases Against Influential Public Personalities](#)
17. [237th Report on Compounding of IPC Offences](#)
18. [234th Report on Legal Reforms to Combat Road Accidents](#)



# APAST REPORTS ON CHANGES AMENDMENTS TO BE INCORPORATED IN CRIMINAL LAWS:

19. [233rd Report on Amendmne of CrPC Enabling Registration of Complaints](#)
20. [227th Report on Preventing Bigamy via Conversion to Islam](#)
21. [226th Report on the Inclusion of Acid Attacks as Specific Offences in the IPC](#)
22. [221st Report on Need for Speedy Justice Some Suggestions](#)
23. [213th Report on Fast track Magisterial Courts for Dishonoured Cheque Cases](#)
24. [210th Report on the Humanization and Decriminalization of Attempt to Suicide](#)
25. [203rd Report on Section 438 of the Code of Criminal Procedure 1973](#)
26. [202nd Report on the proposal to Amend section 304 B of the IPC](#)
27. [201st Report on Emergency and Medical Care to Victims of Accidents](#)
28. [198th Report on Witness Identity Protection and Witness Protection Programmes\](#)
29. [192nd Report on Prevention of Vexatious Litigation](#)
30. [187th Report on the Mode of Execution of Death Sentence and Incidental Matters](#)
31. [185th Report on Review of the Indian Evidence Act 1872 Part I](#)
32. [185th Report on Review of the Indian Evidence Act 1872 Part II](#)
33. [185th Report on Review of the Indian Evidence Act 1872 Part IIIA](#)
34. [185th Report on Review of the Indian Evidence Act 1872 Part IIIB](#)
35. [185th Report on Review of the Indian Evidence Act 1872 Part IV](#)
36. [185th Report on Review of the Indian Evidence Act 1872 Part V](#)
37. [180th Report on Article 20\(3\) of the Constitution of India and the Right to Silence](#)
38. [179th Report on the Public Interest Disclosure and the Protection of Informers Bill](#)



# APAST REPORTS ON CHANGES AMENDMENTS TO BE INCORPORATED IN CRIMINAL LAWS:

39. [179th Report on the Public Interest Disclosure and the Protection of Informers](#)
40. [178th Report on Recommendations for Amending Various Enactments Both Civil and Criminal Vol. 1](#)
41. [178th Report on Recommendations for Amending Various Enactments Both Civil and Criminal Vol. 2](#)
42. [177th Report on the Law Relating to Arrest Vol. 1](#)
43. [177th Report on the Law Relating to Arrest Vol. 2](#)
44. [175th Report on The Foreigners \(Amendment\) Bill 2000](#)
45. [173rd Law Commission Report on Prevention of Terrorism Bill 2000](#)
46. [172nd Report of Law Commission on Review of Rape Laws](#)
47. [156th Report on the Indian Penal Code Vol. 1](#)
48. [156th Report on the Indian Penal Code Vol. 2](#)
49. [155th Report on the Narcotic Drugs and Psychotropic Substances Act 1985](#)
50. [154th Report on The Code Criminal Procedure 1973 Vol. 1](#)
51. [154th Report on The Code Criminal Procedure 1973 Vol. 2](#)
52. [152nd Report on Custodial Crimes](#)
53. [149th Report on the Removal of Certain Deficiencies in the Motor Vehicles Act 1988](#)
54. [146th Report on the Sale of Women and Children](#)
55. [142nd Report on Concessional Treatment for Offenders who on their own Initiative Choose to Plead Guilty Without Bargaining](#)
56. [141st Report on the Need for Amending the Law as Regards Power of Courts to Restore Criminal Revisional Applications](#)
57. [135th Report on Women in Custody](#)



# APAST REPORTS ON CHANGES AMENDMENTS TO BE INCORPORATED IN CRIMINAL LAWS:

58. 132nd Report on the Need for Amendment of the Provisions of Chapter IX of the CrPC 1973
59. 119th Report on Access to Exclusive Forum for Victims of Motor Vehicle Accidents Under the Motor Vehicles Act 1939
60. 113th Report on Injuries in Police Custody
61. 109th Report on Obscene and Indecent Advertisement and Displays
62. 102nd Report on Section 122(1) of the Code of Criminal Procedure 1973
63. 94th Law Commission Report on Evidence Obtained Illegally or Improperly
64. 91st Report on Dowry Deaths and Law Reform
65. 88th Report on the Governemental Priviledge in Evidence
66. 87th Report on the Identification of Prisoners Act 1920
67. 85th Report on the Claims for Compensation Under Chapter 8 of the Motor Vehicles Act 1939
68. 84th Report on Rape and Allied Offences Some Questions of Substantive Law, Procedure and Evidence
69. 79th Report on the Delay and Arrears in High Courts and Other Appellate Courts
70. 78th Report on the Congestion of Under Trial Prisoners in Jails
71. 77th Report on Delay and Arrears in Trial Courts
71. 74th Report on the Proposal to Amend the Indian Evidence Act 1872
72. 73rd Report on the Criminal Liability for Failure by Husband to Pay Maintenance
73. 64th Report on the Suppression of Immoral Traffic in Woman and Girls Act 1956

# APAST REPORTS ON CHANGES AMENDMENTS TO BE INCORPORATED IN CRIMINAL LAWS:

74. 43rd Report on Offences Against the National Security.

75. 42nd Report on the Indian Penal Code

76. 41st Report on the Code of Criminal Procedure 1898 Vol. 1

77. 40th Report on the law Relating to Attendance of Prisoners in Courts

78. 39th Report on the Punishment of Imprisonment for Life Under the IPC

79. 37th Report on the Code of Criminal Procedure

80. 36th Report on Sections 497 498 and 499 of the CrPC Grant of Bail with  
Conditions

81. 35th Report on Capital Punishment Vol. 1\_3

82. 35th Report on Capital Punishment Vol. 2

83. 33rd Report on Section 44 of the Code of Criminal Procedure

84. 32nd Report on Section 9 of the Code of Criminal Procedure

85. 29th Report on Proposal to Include Certain Social and Economic Offences in  
the IPC



# EARLIER AMENDMENTS

Over the years, the nature and extent of crime have changed. The British made the criminal code though it was ahead of its time, and needed amendments. The IPC has been amended about 77 times. However many recommendations from the 42nd report of the law commission 1971 have still not been adopted. The provisions for anti-dowry laws and stringent punishment for rape laws are some of them. Two of the major amendments were the criminal law amendment of 2013 and the Criminal Law Amendment Bill of 2018.

- **Criminal (Amendment) Act, 2013**

The bill introduced before the enactment of this Act was also called the anti-rape bill. The Act was introduced to make the rape laws in India more stringent. This amendment widened the definition of rape by including oral sex and the infiltration of other objects into women's bodies as a crime. Considering the rising number of rapes in India and the severity of the heinous crime, this was a huge step. Stalking had also been criminalized under this act. It also considered the capturing and watching of women in a private demonstration against her will, to be a crime.

- **Criminal Amendment Act, 2018**

This Act was furthered to strengthen the rape laws. The quantum of punishment was increased from at least 7 to 10 years. Provisions for punishment for rape of a girl under 12 years and 16 years were also added under it.

The insertion of Section 153 A and 509 was made to counter the racially motivated crimes. However, this did not receive support from all the states to that extent.



# EVALUATING THE POLITICAL AGENDA BEHIND RESTRUCTURING IPC

The Union Home Ministry proposed the idea to revamp the IPC, which was introduced during the British rule in India, based on the “master-servant” spirit. Under the Bureau of Police Research and Development, a committee has also been set up to look into the changes to be brought. The agenda for the government to rebuild this law which has been in force for so many years is to fulfill the democratic aspirations of the people and to ensure speedy justice and simplify legal procedures. Although the ministry claims the real reason to do this is to ensure speedy justice and the simplification of the legal system, one cannot help but wonder if there is any hidden political agenda behind this. IPC forms one of the basic criminal laws in the country that applies to all people. The changes in the IPC are surely required, however, the changes can be easily made to suit any one party or any politician. Changes should, therefore, be subjected to public opinion before being implemented.

## BHARATIYA NYAYA SANHITA ACT

The Bharatiya Nyaya Sanhita, 2023 was introduced in Lok Sabha on August 11, 2023. The Bill repeals the Indian Penal Code, 1860 (IPC). IPC is the principal law on criminal offences. /Categories of offences covered under it include those affecting: (i) human body such as assault and murder, (ii) property such as extortion and theft, (iii) public order such as unlawful assembly and rioting, (iv) public health, safety, decency, morality, and religion, (iv) defamation, and (v) offences against the state.



# BHARATIYA NYAYA SANHITA ACT

The Bill retains several parts of the IPC. Changes include introduction of offences of organised crime and terrorism, enhancement in penalties for certain existing offences, and introduction of community service as a punishment for certain petty offences. Certain offences under the IPC that have been struck down or read down by courts have been omitted. These include offences of adultery and same-sex intercourse (Section 377).

## **Key changes proposed in the Bill include:**

**Sedition:** IPC defines sedition as bringing or attempting to bring hatred or contempt, or exciting disaffection towards the government. It is punishable with imprisonment between three years and life imprisonment, and/or a fine. The Bill removes this offence. It instead penalises the following: (i) exciting or attempting to excite secession, armed rebellion, or subversive activities, (ii) encouraging feelings of separatist activities, or (iii) endangering sovereignty or unity and integrity of India. These offences may involve exchange of words or signs, electronic communication, or use of financial means. These will be punishable with imprisonment of up to seven years or life imprisonment, and a fine.

**Terrorism:** The Bill defines terrorism as an act that intends to threaten the unity, integrity, and security of the country, to intimidate the general public or disturb public order. Terrorist acts include: (i) using firearms, bombs, or hazardous substances (biological or chemical) to cause death, danger to life, or spread a message of fear, (ii) destroying property or disrupting essential services, and (iii) activities included in the treaties listed in the Second Schedule of the Unlawful Activities (Prevention) Act, 1967 such as unlawful seizure of aircraft or taking of hostages. Punishment for attempting or committing terrorism includes: (i) death or life imprisonment, where the offence has resulted in death of any person, (ii) imprisonment term between five years and life in other cases.



# BHARATIYA NYAYA SANHITA ACT

The Bill also penalises conspiring, organising, or assisting in preparation of any terrorist act with an imprisonment term between five years and life imprisonment, and a fine of at least five lakh rupees.

The Bill defines organised crime as: (i) a continuing unlawful activity such as kidnapping, extortion, contract killing, land grabbing, financial scams, and cybercrime, (ii) carried out by use of violence, intimidation, or other unlawful means, (iii) to obtain material or financial benefit, and (iv) carried out by individuals acting singly or jointly, as members of or on behalf of a crime syndicate. Attempting or committing organised crime will be punishable with: (i) death or life imprisonment, where the offence results in death of any person, and (ii) imprisonment term between five years and life, in other cases. The offender will also be liable to pay a fine.

**Petty organized crime:** The Bill makes attempting or committing petty organised crime punishable with imprisonment between one and seven years, and a fine. Petty organised crimes are those which cause general feelings of insecurity among citizens, and are committed by organized criminal groups/gangs. These include organized pick pocketing, snatching, and theft.

**Murder by a group of persons on grounds of caste or race:** The Bill specifies separate penalty for murder committed by five or more people on specified grounds. These include race, caste, sex, place of birth, language, or personal belief. Each offender will be punishable with imprisonment between seven years and life, or death. It will also attract a fine.



# BHARATIYA NYAYA SANHITA ACT

Death penalty for gang rape of minor: IPC allows death penalty for gang rape of women below 12 years of age. The Bill allows death penalty for gang rape of women below 18 years of age.

Sexual intercourse by deceitful means: The Bill penalises the act of sexual intercourse with a woman (not amounting to rape) through deceitful means or a promise of marriage without intending to fulfil it. It will be punishable with simple or rigorous imprisonment up to 10 years, and a fine.

Extending applicability of certain offenses to boys: Under the IPC, importing girls under the age of 21 years for illicit intercourse with another person is an offense. The Bill specifies that importing boys under the age of 18 years for illicit intercourse with another person will also be an offense.

We would request the participants to hence come out with sub topics on the above discussed issues and utilize the special session of this parliament for engaging in Legislative business.