
A COMPARATIVE OPINION STUDY ON IPC VS BNS FROM THE ADVOCATES' PERSPECTIVE

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ABSTRACT

This study explores the opinion of Advocates regarding the “Indian Penal Code (1860)”, with the newly proposed “Bharatiya Nyaya Sanhita, 2023”. This Comparative Opinion Study employs a quantitative data collection through questionnaires from the currently practicing Advocate professionals in the District Court of Tiruvallur, Tiruvallur District. The study aims to reveal the significant differences in the Advocates' opinions regarding the effectiveness, clarity, and fairness of the replacement of the IPC. I conducted research using a 50-person sample size of currently practicing Advocates to explore the opinions. This research added to the existing papers by providing data on the advocates' perspective on the two legal frameworks. This study provides a unique perspective focusing on the views and opinions of advocates who engage in a critical part in shaping the justice delivery method. The results have implications for legal practitioners and scholars seeking to improve the Indian Criminal Justice System.

Keywords: Comparative, Opinions, perspective.

INTRODUCTION

The Indian Penal Code (IPC), enacted in the year of 1860, has been the cornerstone of India's Criminal Justice System (CJS) for more than one hundred and fifty years. Our system has followed these codes successfully. However, with the changing socio-economic landscape and the need for a more complete and detailed way to justice, the Bharatiya Nyaya Sanhita (BNS), 2023, has been presented as a takeover for the IPC. The BNS aims to incorporate traditional Indian values and principles while addressing modern challenges and concerns.

Along with the Indian Penal Code (IPC), the other two legal laws were also repealed and replaced with the new legal codes on July 1, 2024. (i) Bharatiya Nyaya Sanhita (BNS) from Indian Penal Code (IPC), providing definitions and punishments that fit the crimes committed by the offenders. (ii) Bharatiya Nagrik Suraksha Sanhita (BNSS) from the Code of Criminal Procedure (CrPC), which outlines the procedure to investigate crimes, the collection of evidence, and the apprehension of suspects. (iii) Bharatiya Sakshya Adhiniyam (BSA) from the Indian Evidence Act (IEA), governing the admissibility of proofs in Indian courts.

However, this paper only focuses on the IPC vs BNS from the Advocates' perspective. As the Indian legal fraternity prepares for this potential transition, it is essential to understand the perspectives of Advocates, who are necessary in shaping the processes for delivering justice. This research aims to find out the opinion of Advocates with correlation to the IPC and the proposed BNS, with a specific focus on their comparison between the two codes, whether the BNS provides a fairer justice, and protects the victims. By examining the Advocates' perspective, this study seeks to encourage the ongoing discussion on the update of the Indian system of punishments and offer useful insight to policymakers, legal experts, and scholars.

LITERATURE REVIEW

(Akshay Sreevatsa, 2024) Contributes a sharp review of the change from the colonial-era Indian Penal Code (IPC) to the Bharatiya Nyaya Sanhita (BNS), effective on July 1, 2024. Key reforms consist of too many streamlined structures, embellished penalties for property crimes and negligence, and the introduction of community service for minor offences. Notable progressive shifts involve the decriminalization of consensual same-sex relationships, attempted suicide, and adultery- aligning Indian criminal law with global human rights standards. New offences such as mob lynching and terrorism and codified, while sedition has

been repealed. Despite these advancements, the paper identifies critical shortcomings: vague definitions (e.g., organized crime), lack of clarity in sentencing policy, continued allowance of solitary confinement, and the failure to criminalize marital rape. These gaps raise concerns about inconsistent application and potential misuse, underscoring the need for clearer policy guidance. Overall, the paper positions the BNS as a significant reformative step but emphasizes that its impact will depend heavily on implementation and judicial interpretation. (Sneha M, 2023)

Explores the concept and legal treatment of sedition in India, tracing its colonial roots and evolution through key historical and judicial moments. It underscores the tension between the regulations regarding sedition and the constitutional right to expression under Article 19(1)(a). Historically rooted in British colonial control mechanisms, sedition laws in India have been used against notable figures like Gandhi and modern activists, often blurring the line between dissent and criminal offense. Provided a detailed analysis of Section 124A of the IPC, highlighting its broad and vague terminology, which has enabled misuse. Landmark cases like *Kedarnath Singh vs State of Bihar* and *Balwant Singh vs State of Punjab* illustrate the judiciary's evolving stance, gradually narrowing sedition's scope to acts inciting public disorder or violence. Since the commencement of the BNS, the author notes a significant shift. The new bill replaces Section 124A with a more specific provision under Section 150 that criminalizes actions threatening India's "sovereignty, unity, and integrity". This includes inciting secession or armed rebellion but explicitly allows lawful criticism of government actions, marking a move toward protecting democratic dissent. The author concludes that while the changes may appear minor, they symbolically and functionally represent a positive step away from colonial legal traditions and a clearer demarcation between criticism and sedition. However, careful implementation is vital to preserve free expression while ensuring national security. (Mimansa Mittal and Suraj Mittal, 2024)

The change from IPC to BNS, focusing on gender inclusivity and the recognition of gender fluidity in Indian criminal law. Despite expectations that the BNS would correct the colonial-era IPC's gender biases, both frameworks fall short in acknowledging the spectrum of gender identities, particularly nonbinary and LGBTQIA+ individuals. The authors argue that while certain provisions in the BNS have moved towards gender neutrality, substantial gaps remain, especially in laws addressing sexual violence, which largely continue to view men as the only offenders and women as the only victims. Provisions like Section 354 (IPC) and Sections 75–78 (BNS) still reflect heteronormative and binary assumptions, excluding transgender and gender nonconforming individuals from equal legal protection. The article critiques the legal

invisibility of transgender people and the LGBTQ+ community, pointing out missed opportunities in BNS to align with the Transgender Persons (Protection of Rights) Act, 2019, and decisions from the Supreme Court. The authors call for a paradigm shift in Indian criminal law to embrace gender-neutral and inclusive language and to protect all individuals, irrespective of gender identity, from sexual and other forms of violence. (Shruti Bose and Ms. Priya) the historical, legal, and socio-political dimensions of India's sedition laws, focusing on IPC Section 124A and the newly proposed BNS Section 152. It provides a critical comparison between colonial-era and contemporary legal interpretations and highlights the persistent tension between freedom of speech and state security. Historically, sedition laws in India were introduced by the British in 1870 to suppress dissent, notably used against figures like Bal Gangadhar Tilak and Mahatma Gandhi. Despite gaining independence, India retained Section 124A, prompting ongoing constitutional and judicial scrutiny. The Supreme Court has intermittently narrowed its application to incitement of violence (e.g., *Kedarnath Singh v. State of Bihar*, 1962), but contemporary use has shown a trend toward politicized and arbitrary enforcement, often against journalists, protesters, and dissenters. The BNS replaces the term "sedition" with broader and more ambiguous expressions like "subversive activities" and "promoting separatist feelings," which lack clear legal definitions. This expansion raises serious constitutional concerns, especially under Article 19(2), as it potentially criminalizes peaceful dissent and opens doors to abuse of power. The paper also examines the chilling effect on media freedom and public discourse. Legal actions against journalists, particularly women and minorities, and the use of sedition as a tool of censorship have led to self-censorship and erosion of public trust. The authors conclude by arguing for reform or repeal of sedition laws to align with democratic norms and constitutional guarantees of free expression. (Kushal Tripathi 2024) Studies the shift from the colonial-era IPC to the new BNS, highlighting a move from punishment-focused to justice-oriented criminal law. The BNS introduces reforms such as recognizing mob lynching, expanding definitions of organized crime, and replacing sedition with a broader provision. It also adds community service as punishment for minor offenses. While it modernizes India's legal system, the paper notes challenges like vague legal terms, overlaps with existing laws, and dependence on judicial interpretation for effective implementation. (Manindra Singh Hanspal, 2024) analyses the 2023 legal reforms in India—BNS, BNSS, and BSA—which replace outdated colonial laws to strengthen women's safety. The new laws expand definitions of gender-based crimes, introduce stricter punishments, and modernise procedures through digital evidence and faster trials. While promising, their success

depends on proper implementation and societal change. (Vinod Kumar Sharma and Anshula Shreshth, 2024) provide a comparative analysis of India's sexual harassment laws—IPC, POSH Act, and BNS. While IPC and BNS concentrate on punishing physical moves, the POSH Act addresses broader workplace harassment, including emotional and psychological aspects. The authors critique all three for gender-specific limitations and call for a more inclusive, genderneutral, and comprehensive legal framework. They advocate integrating civil and criminal remedies and aligning laws with contemporary workplace realities. (Yeshwant Naik, 2024) Examines the Bharatiya Nyaya Sanhita (BNS), arguing that while it replaces the colonial-era IPC, it largely reinforces state control and nationalist agendas. Though it introduces reforms like community service and stricter penalties for certain crimes, it retains outdated provisions (e.g., marital rape exception) and lacks protections for LGBTQ+ individuals. The expanded sedition law and vague language raise concerns about misuse and suppression of dissent.

Overall, the BNS reflects continuity with colonial structures rather than genuine reform.

(Hegde et al., 2024) examine the impact of the BNSA 2023 on forensic psychiatry in India. While the Act decriminalizes suicide attempts by the Mental Healthcare Act 2017, it introduces a new offense (Section 226) that could re-stigmatize mental illness. The inclusion of community service as punishment marks progress, but its implementation remains unclear. The continued use of the term “unsound mind” and the retention of the outdated insanity defence (based on the M’Naghten rules) are seen as missed opportunities for reform. (Dr. C.P. Sheoran and Mr. Satesh, 2025) explores how the Bharatiya Nyaya Sanhita (BNS), 2023 reforms marital offence laws in India by replacing outdated IPC provisions. It addresses bigamy, cruelty, deceitful marriages, and fraudulent ceremonies, while decriminalizing adultery. The study highlights improvements like better procedural safeguards and gender-sensitive reforms, but also notes challenges such as low legal awareness, gender bias in enforcement, and judicial delays. It calls for greater public education, law enforcement training, and harmonization with personal laws.

AIM AND OBJECTIVES

This study aims to compare the opinion of the Advocates' perspective on the change of IPC, 1860, with BNS, 2023. Helps to understand the Advocates' point of view on the effectiveness

and fairness of the changes. Quantitative data collection was conducted in the District Court of Tiruvallur.

1. To explore the opinions of advocates regarding the replacement of IPC.
2. To examine the Advocate's opinions regarding the proposed BNS.
3. To compare the Advocates' perspective on the IPC and the proposed BNS in terms of their effectiveness, clarity, and fairness.

MATERIALS AND METHODS

The current study adopts a quantitative research methodology. A sample of 50 practicing Advocates from the District Court of Tiruvallur was collected for data analysis. Questionnaires were prepared and utilized as a means of gathering information from the Advocates through a series of questions. Descriptive statistics (percentages and frequencies) and the statistical package for social science (SPSS) were used in the analysis.

TABLE 1:

| | IPC SHOULD BE REPLACED WITH BNS | BNS IMPROVES OVER IPC |
|-----------------------|---------------------------------------|--------------------------|
| Correlation | 1 | .620** |
| Sig. (2-tailed) | | .000 |
| N | 50 | 50 |
| BNS IMPROVES OVER IPC | | |
| Correlation | .620** | 1 |
| Sig (2-tailed) | .000 | 1 |
| N | 50 | 50 |

Interpretation: The Correlation coefficient ($r = 0.620$, $p = .000$) shows a moderate to strong positive and significant relationship between the belief that BNS improves over IPC and the opinion that IPC should be replaced with BNS. As confidence in BNS increases, so does support for replacing IPC.

Critical Perspective: This finding supports the idea that stakeholders are open to innovation and improvement, which is a positive sign for implementing new systems like BNS.

TABLE 2:

| | DIFFICULTIES IN INTERPRETING IPC | BNS REDUCE BURDEN OF JUDICIARY |
|-------------------------------------|---|--------------------------------------|
| DIFFICULTIES IN INTERPRETING IPC | 1 | .357* |
| Sig. (2-tailed) | | .011 |
| N | 50 | 50 |
| BNS REDUCE BURDEN OF JUDICIARY | .357* | 1 |
| Sig. (2-tailed) | .011 | |
| N | 50 | 50 |

Interpretation: There is a moderate positive and significant correlation ($r = 0.357$, $p = .011$) between difficulties in interpreting IPC and the belief that BNS reduces the judiciary's burden. As interpretation issues with IPC increase, support for BNS also rises.

Critical Perspective: The result shows that Advocates recognize BNS as a helpful solution to challenges with IPC. It suggests growing support for reform and highlights BNS's potential to improve legal clarity and reduce judicial workload.

RESULTS

WHICH IS MORE BENEFICIAL FOR INDIAN SOCIETY

| | Frequency | Percentage | Valid percentage | Cumulative percentage |
|--------------|-----------|--------------|------------------|-----------------------|
| Valid | 9 | 18.0 | 18.0 | 18.0 |
| IPC | 15 | 30.0 | 30.0 | 48.0 |
| BNS | 26 | 52.0 | 52.0 | 100.0 |
| Both | 50 | 100.0 | 100.0 | |
| Total | | | | |

According to data, 18% (9 respondents) agree that IPC alone is more beneficial, while a higher percentage, 30% (15 respondents), consider the BNS to be more advantageous. Notably, the largest group, 52% (26 respondents), believe that both IPC and BNS are beneficial, suggesting a recognition of strengths in each system.

This distribution highlights an important perspective: while the BNS is gaining support for being potentially more effective or modernized, many individuals still acknowledge the enduring relevance or value of the IPC. The fact that over half of the participants chose “both” indicates a transitional or integrative mindset, where Advocates may be open to adopting new legal reforms like the BNS while also valuing the foundation and familiarity of the IPC. The results reflect a positive attitude toward reform, but not a complete rejection of the existing system. Overall, this data suggests that for the majority, a balanced approach that incorporates beneficial elements from both legal frameworks may be seen as most appropriate for Indian society.

WHICH LAW PROTECTS VICTIMS

| | F | P | VP | CP |
|--------------|-----------|--------------|--------------|--------------|
| Valid | 11 | 22.0 | 22.0 | 22.0 |
| IPC | 23 | 46.0 | 46.0 | 68.0 |
| BNS | 16 | 32.0 | 32.0 | 100.0 |
| Both | 50 | 100.0 | 100.0 | |
| Total | | | | |

Most of those surveyed (46%) Favor BNS, indicating a significant level of confidence in Advocates in the new legal reforms under BNS when it comes to victim protection. The 32% who selected “both” reflect a view that while BNS may introduce improvements, IPC still holds value in certain areas of victim protection. Only 22% believe IPC alone is more protective, suggesting that many perceive the older code as less effective in current times. The results clearly suggest a growing trust in BNS for its victim-centered provisions or reforms, positioning it as a more progressive legal framework in the eyes of many. At the same time, the considerable portion of those who support both laws shows that some respondents prefer a blended approach, valuing the strengths of both legal systems. This data supports the argument that legal reform is being positively received, particularly in areas related to victim protection and rights.

WHICH LAW IS FAIRER AND MORE JUST

| | F | P | VP | CP |
|--------------|-----------|--------------|--------------|--------------|
| IPC | 9 | 18.0 | 18.0 | 18.0 |
| BNS | 14 | 28.0 | 28.0 | 46.0 |
| Valid | 27 | 54.0 | 54.0 | 100.0 |
| Both | 50 | 100.0 | 100.0 | |
| Total | | | | |

Advocates see value in both legal systems, indicating that while BNS is gaining support for being more modern and just, many still recognize the foundational strengths of IPC. The fact that more respondents chose BNS (28%) over IPC (18%) on its own highlights a positive shift in perception toward the new legal code. The data suggests that BNS is seen as a step toward improved justice, but there remains an appreciation for the IPC's historical role. This supports the idea that a balanced integration of both systems may be ideal in the eyes of the public.

IPC SHOULD BE REPLACED WITH BNS

| | F | P | VP | CP |
|--------------------------|-----------|--------------|--------------|--------------|
| Strongly agree | 25 | 50.0 | 50.0 | 50.0 |
| Agree | 8 | 16.0 | 16.0 | 66.0 |
| Neutral Valid | 12 | 24.0 | 24.0 | 90.0 |
| Disagree | 1 | 2.0 | 2.0 | 92.0 |
| Strongly disagree | 4 | 8.0 | 8.0 | 100.0 |
| Total | 50 | 100.0 | 100.0 | |

A combined 66% of participants (strongly agree + agree) support replacing IPC with BNS, reflecting a strong positive sentiment toward legal reform. The neutral group (24%) suggests that a significant portion is either undecided or requires more information. Only 10% oppose the replacement, indicating minimal resistance. These results highlight a growing acceptance and support for BNS, suggesting that the Advocates see it as a more effective or modern alternative to the IPC. This data supports the case for transitioning to BNS in India's legal system.

DISCUSSION

The findings from the collected data reflect a clear and evolving advocate's perception regarding the transition from IPC to BNS. Across multiple aspects—effectiveness, fairness, victim protection, and societal benefit—BNS consistently receives more favourable responses, indicating advocates' support for reform in India's criminal justice system.

1. Advocates' Support for Replacing IPC with BNS

According to the table on whether IPC should be replaced with BNS, 66% of those surveyed either agreed or strongly agreed, while only 10% disagreed or strongly disagreed. This indicates a strong inclination toward adopting BNS as a replacement for IPC. A correlation analysis further reinforces this, showing a strong positive and significant relationship ($r = 0.620$, $p < 0.01$) between the belief that BNS improves upon IPC and the support for replacing IPC with BNS.

2. Interpretational Clarity and Judicial Efficiency

A moderate, yet significant, correlation ($r = 0.357$, $p = 0.011$) between difficulties in interpreting IPC and the belief that BNS reduces the burden on the judiciary suggests that BNS is perceived as more comprehensible and practical. This implies that BNS may offer legal clarity and efficiency, addressing one of the main criticisms of IPC—its complexity and outdated structure.

3. Comparative Perception of Societal Benefit

When asked which law is more beneficial to Indian society, 30% chose BNS, and 52% selected both IPC and BNS, indicating a transitional mindset. While there is clear support for BNS, a majority still value IPC, suggesting that the advocates see potential in integrating the strengths of both systems rather than a complete overhaul.

4. Victim Protection

In terms of protecting victims, 46% of participants favoured BNS, and 32% supported both laws, while only 22% chose IPC. This suggests that BNS is viewed as more responsive to victims' rights and needs, possibly due to newer provisions that emphasize victim-centric justice.

5. Fairness and Justice

Regarding fairness and justice, 28% of respondents chose BNS, 54% chose both, and only 18% favoured IPC. This again highlights a positive shift in perception toward BNS, while also underlining the belief that IPC still holds value in certain respects. The high percentage

choosing “both” across multiple categories suggests that the advocates support evolution over elimination—a reform that builds on the IPC’s foundation rather than discarding it entirely.

CONCLUSION

Overall, the data presents an optimistic view of BNS among the Advocates. Respondents appear to value modernization and clarity, which BNS promises, while also acknowledging the historical and foundational role of IPC. The dominant support for BNS across various parameters (victim protection, fairness, clarity, and effectiveness) and the moderate-to-strong correlations supporting reform show that BNS is seen as a step in the right direction. However, the consistent portion of participants choosing “both” highlights a desire for balance, pointing to the necessity of a thoughtful, composed, and phased implementation of legal reforms in India.

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