
THE EVOLUTION OF CRIMINAL LAWS IN BHARAT: FROM ANCIENT CODES TO MODERN JUSTICE SYSTEM

Swasti Singh, Jash Shah and Sneha Varma, KES' Shri Jayantilal H. Patel Law College

ABSTRACT

The evolution of criminal laws in Bharat is a result of society's changing nature from the ancient period to the present in modern times. Several social, political and economic factors keep on influencing the society, due to which there arises a need for continuous legal reforms to ensure justice, equity and adaptability to changing circumstances. A complex journey of transformation of laws can be seen from the earlier period of the Mughals to the British colonial era and then from independence to the contemporary modern period. However, the most significant transformation seemed to have occurred during the British colonial era, which introduced a structured and standardised legal framework in British India. The enactment of Indian Penal Code, 1860¹; Indian Evidence Act, 1872²; and Code of Criminal Procedure, 1898³, are the backbone of Bharat's legal framework and continue to serve as the foundation in the criminal justice system of Bharat. This paper explores how the Indian criminal laws have evolved with changing times, from the early beginnings of ancient codified laws to the contemporary justice systems, showcasing a comparison between the post-independence laws with the newly implemented codes and the case laws that helped to make reforms in criminal justice system. As Bharat continues to evolve, its commitment to ensure fairness, justice and protect the rights of the individuals does not change. Looking ahead, we can truly believe that as these laws continue to progress as per the times and necessity of the society, they do not fail to uphold fairness, transparency and deliver justice to the people of the Bharat.

Keywords: Criminal Law Evolution, Legal Reforms, British Colonial Era, Indian Penal Code, Justice System.

¹Indian Penal Code (1860).

²Indian Evidence Act (1872).

³Code of Criminal Procedure (1898).

INTRODUCTION

The Modern legal regime of Bharat has been influenced by the nation's prosperous cultural ancestry. From the Vedic period till the current day, the legal system has progressed to take into consideration the shifting ethical, societal, and financial standards. The foundation of Bharat's judiciary system is deeply inherent in the history of Bharat itself, starting with holy writings and progressing through kinglike justice during the medieval era and the authorized British-era judiciary that exists now. By addressing civil, criminal, and administrative matters, archaic writings like the Manusmriti and Arthashastra established the groundwork for current legal systems. These critical stages will be examined in this paper to show how Bharat's judicial system evolved from informal community-based practices to an authorized state-run system.

As a result of British colonial rule and since its beginning in traditional law Bharat's legal system has undergone substantial change. The British legal system consistently disregarded native customs resulting in a complicated hybrid legal system that continues to have an influence on Bharat's courts even today. The objective of this paper is to illustrate the flexibility and resilience of Bharat's legal reforms by examining the colonial interference and the philosophical foundations of Dharma. A robust judicial system has been shaped by crucial events such as the development of law and the modernization of judicial proceedings. Every major event has helped to build a strong and self-reliant legal system that upholds citizens' rights and preserves democratic values. This paper scrutinizes the lengthy history of The Great Bharat's judiciary regime, highlighting notable events that shaped the country's justice system and analysing the transformation of the legal system from antiquity to the present one.

JUDICIAL REFORMS IN ANCIENT BHARAT AND FOUNDATIONS OF JUSTICE

Archaic Bharat's justice system was dynamic. Over time, the ancient Bharat legal system has undergone significant improvements to ensure that justice was administered in a fair and efficient manner. It was based on the conception of "Dharma", which regulated not only legal and social conduct but also a religious and moral responsibility. Ancient justice was based on sacred texts such as the Vedas, Manusmriti, Narada Smriti, Yajnavalkya Smriti, and administrative responsibilities such as Kautilya's Arthashastra.

The court for family matters, which began with the family arbitrator, was the court of first instance in ancient Bharat, and the monarch was the supreme judge. The King was acknowledged as the ultimate guardian of justice. It was his duty to make sure that it has

complied with the law. The administration of justice was one of the sovereign's main obligations, and the Monarch received assistance from Pradvivaka, Chief Justice, ministers, and counsellors in this endeavour. As civilization evolved, judges who were familiar with the Vedas were given the responsibilities of the King. Administration of justice was determined on the basis of "dharma," or a set of rules outlining the duties that each person has to follow in life. Apart from royal courts, Village Councils that are Gram Sabhas were also formed. They were accountable for managing regional conflicts outside of the royal courts. Access to justice was enhanced, especially in the rural sector, when they were bestowed the authority to handle civil cases and infractions. The wellspring of law was custom. Up to the Mughal period, this arrangement persisted.

The advancement of legal implementation and penalties was another significant change in this period. Previous systems were largely retributive, with severe penalties for crimes. With the preface of the proportional judiciary through reforms, the theory of "Danda" which is punishment as a deterrent and corrective measure became critical. This approach focused not only on criminal activity but also on restoration and maintaining civil peace. Kautilya's Artha Shastra was one of the primary and most effective texts in ancient legal doctrine. They made significant strides towards crafting a secular judicial system that was more administrative. Later development of law builds on the innovations of trials directed with evidence, documentation, anti-corruption, and an orderly system of administration. These noteworthy features of the judiciaries made prominent strides towards attaining a logical integration of custom and effective administration of laws.

JUSTICE, POWER, AND LAW IN MEDIEVAL BHARAT

As stewards of justice, the rulers of medieval Bharat established Sharia, court that was subservient to their sovereign power, despite the religious leader's attempts to make Islam a religion of law. Theoretically, the monarchs had to follow Sharia law, and history records instances in which sovereigns blindly accepted Qazi's ruling. There was a Qazi in every major town and province capital. The parties were present during the trial, and the Qazis were expected to properly draft their legal paperwork. The highest court of appeal was the King. In a court called Mazalim (complaints), the rulers sat. Ibn Battuta claims that the Tughalaq dynasty's monarch, Muhammad ibn Tughalaq, heard grievances every Monday and Thursday.

An official known as Amir-i-dad took over secular Court in the absence of the sultan starting in the 13th century. In addition, he was in charge of putting Qazis' rulings into effect and

alerting them to instances when justice had been lost. As Sharia law specialists, the Muftis issued Fatwas, or official court decisions, in cases that the general public or qazis brought to them. Qazi-i-malik, also called Qazi-ul-quzat, was the Head of the Sultanate's judiciary. In the time of Mughals, the secular judge was called Mir-adl. He presided over the emperor as a judge. He had to ask personal and objective questions. Emperor Akbar also paid two officials, known as tui-begis, a small sum to oversee compliance with the rule. Up until the British seized control of India, the same system was in place.

Justice in medieval Bharat was therefore closely linked to religion, but the ultimate decision was made by the kings. Sharia law was enforced by Qazis, and the monarch served as the highest court of appeal. State control and legal traditions were reconciled with the aid of officials such as the Amir-i-Dad and Mir-Adl. In spite of their power, some kings even complied with court rulings. This system, which combined power and faith, persisted until the arrival of the British. Under their leadership, organised legal reforms replaced religious justice, establishing the groundwork for the contemporary judiciary.

BRITISH RULE AND THE CODIFICATION OF BHARAT'S LEGAL SYSTEMS

Bharat's current legal system was established during colonial era. East India Company set up courts using English law and European judges. Sadar Diwani Adalat and common law system were brought to Bharat by the British. High courts were subsequently established in its wake. The Supreme Court of Judicature was established in Calcutta by the King of England's enactment of the Regulating Act, 1773⁴. On December 26, 1800, King George III founded the Supreme Court in Madras, and on December 8, 1823, he established Supreme Court in Bombay. Supreme Courts in Calcutta, Madras, and Bombay, as well as the Sadar Adalat's in Presidency towns, were abolished in 1862 with the founding of the High Court of Calcutta, which was a major step in the creation of a formal legal framework.

Indian High Courts Act of 1861⁵ created high courts in Madras, Bombay, and Calcutta. These high courts heard appeals and matters involving original jurisdiction, becoming the highest courts in their respective jurisdictions. Government of India Act created the separation of the judiciary from governmental control which was one of the judicial system improvements brought about by this statute. Government of India Act, 1935⁶ gave the national and provincial

⁴ Regulating Act (1773).

⁵ Indian High Courts Act (1861).

⁶ Government of India Act (1935).

legislatures even more authority and responsibility. It made the Federal Court of India the supreme court with authority over constitutional disputes.

The establishment of the Law Commission marked the beginning of the serious codification of the law. IPC was written, passed, and implemented by 1862 under the direction of its chairman, Thomas Babington Macaulay. Along with a number of other laws and regulations, such as Evidence Act and Contract Act. The same panel also drafted CrPC. With the beginning of codified laws and institutional courts the colonial period shaped Bharat's judicial system. Indian Penal Code and Evidence Act established legal principles that are still adhered to at present, while high courts and Federal Court introduced uniformity. Foundation for a more independent judiciary was established by British reforms, despite their command over the institution. The need for a judicial system that actually benefited Bharat's citizens intensified as the country approached independence, opening the door for additional legal regime.

CRIMINAL LAWS IN COLONIAL PERIOD (PRE-INDEPENDENCE)

Before independence, the legal framework of Bharat was formulated by the British colonial rule in such a way that it serves the interest of the Britishers. However, if we step into history, before British introduced the structured codified laws, Bharat had a multifaceted legal system influenced by ancient Hindu and Islamic laws, which were administered by the local rulers and religious courts. Nevertheless, the British introduced a structured legal framework which became the foundation of the criminal system of India. The formation of structured codified laws like Indian Penal Code, 1860⁷; Code of Criminal Procedure, 1898⁸; and Indian Evidence Act, 1872⁹, were introduced in Bharat, which eventually was made to serve the British interest and provided a legal framework for India. Now that we see, these laws have turned out to be the core of the Bharat's criminal legal system even after independence in 1947.

1. INDIAN PENAL CODE, 1860.¹⁰

Law Commission formed in 1834, which was led by Thomas Macaulay, drafted the Indian Penal Code¹¹ under the Charter Act, 1833¹². Although, code was presented to the then

⁷ Indian Penal Code (1860).

⁸ Code of Criminal Procedure (1898).

⁹ Indian Evidence Act (1872).

¹⁰ Indian Penal Code (1860).

¹¹ Indian Penal Code (1860).

¹² Charter Act (1833).

Governor-General of India Council in 1837, it was to be revised again.¹³ But unfortunately, due to the Indian Rebellion, 1857, it did not enter into the British Indian statute even when it was completed in 1850 and presented to the legislative council in 1856. Later, on October 6, 1860, the IPC was finally passed into law.¹⁴ The IPC in total contains 511 sections classified into 23 chapters.¹⁵

2. INDIAN EVIDENCE ACT, 1872.¹⁶

The Royal Charter created courts in the presidency towns which were supposed to enforce English laws. However, the courts had complete discretion in admitting evidence since there was no definite law of evidence in the Mofussil territories, which are the areas outside the presidency towns. But this also created chaos in the administration of Mofussil courts due to lack of standards of governing the law of evidence. Later, the Governor-General passed the first act related to rules of evidence in 1835. Despite this, there was a need for modification for which a commission named 'Maine Commission' was formed, but it failed to provide all requirements. Another commission named 'Stephen Commission' was established in 1871, which presented its bill, and after presenting the same to the Council, it was enacted as 'Indian Evidence Act, 1872¹⁷'. It has in total of 11 chapters and 167 sections and came into force on 1st September 1872.¹⁸

3. CODE OF CRIMINAL PROCEDURE, 1898.¹⁹

This act has come into existence after the formation of the first CrPC which was enacted in the year 1861 during British colonial rule. It aimed to introduce a structured uniform criminal procedure in the British India. However, CrPC, 1898 remained into force until post-independence reforms led to the formation of the modern CrPC, which came into effect on April 1, 1974²⁰. CrPC (1898) in total has 527 sections which are divided into 37 Chapters.²¹

¹³ Indian penal code (IPC) - history, structure, Provisions & More, Textbook, <https://testbook.com/ias-preparation/indian-penal-code-ipc> (last accessed Feb 21, 2025).

¹⁴ Indian penal code (IPC) - history, structure, Provisions & More, Textbook, <https://testbook.com/ias-preparation/indian-penal-code-ipc> (last accessed Feb 21, 2025).

¹⁵ Indian Penal Code, 1860.

¹⁶ Indian Evidence Act (1872).

¹⁷ Indian Evidence Act (1872).

¹⁸ Indian Evidence Act, 1872, IPC Laws (2024), <https://ipclaws.in/indian-evidence-act> (last accessed Feb 23, 2025).

¹⁹ Code of Criminal Procedure (1898).

²⁰ Code of Criminal Procedure (1898).

²¹ Code of Criminal Procedure (1898).

CRIMINAL LAWS IN MODERN PERIOD (POST-INDEPENDENCE)

After Bharat gained Independence, the structured legal framework formalized by the British i.e. IPC (1860), IEA (1872) and CrPC (1898) were reformed and many new sections were added and amendments were made to them. Since these laws were formed keeping in mind the interest of the Britishers, there was a need for many amendments to take place in order to address the social and legal issues of the Bharat's people along with ensuring fairness and justice.

Below is an overview of the changes and amendments made to the existing laws of the pre-independence era –

1. INDIAN PENAL CODE, 1860.²²

Post- Independence many amendments have been made in IPC such as –

- Issues related to domestic violence.
- Incorporation of new sections to deal with emerging issues like cybercrime.
- Increased minimum punishment for rape.
- Raising the age of consent to 18.
- Strict laws against sexual assault.
- Removing adultery as an offense.

2. INDIAN EVIDENCE ACT, 1952.²³

This act has undergone several amendments after independence such as –

- Allowed tribunals to function just like regular courts.
- Amended the Information Technology Act, 2000.²⁴
- Allowed digital records to be admissible in courts.
- Allowed past sexual history to be irrelevant in rape cases.²⁵
- Enhanced punishment for sexual crimes related to minors.
- Improved laws on sexual harassment.

²² Indian Penal Code (1860).

²³ Indian Evidence Act (1952).

²⁴ Information Technology Act, 2000.

²⁵ Indian Evidence Act (1872).

3. CODE OF CRIMINAL PROCEDURE, 1973.²⁶

After independence, this act has been amended and include provisions such as –

- Offences were classified as bailable and non-bailable.²⁷
- Offences were classified cognizable and non-cognizable.²⁸
- Restrictions on arbitrary arrests.
- Introduction of Victim Compensation Scheme.
- Special provisions for rape victims.
- Special provisions for domestic violence.
- Provides maintenance rights.

NEWLY ENACTED CRIMINAL LAWS (PRESENT)

The Parliament of Bharat has recently enacted criminal laws which took effect on 1st July 2023. These new criminal laws are Bharatiya Nyaya Sanhita, 2023²⁹, Bharatiya Nagarik Suraksha Sanhita, 2023³⁰ and Bharatiya Sakshya Adhinyam, 2023³¹, represent a landmark shift in the criminal system, now replacing the earlier laws IPC (1860), CrPC (1898) and IEA (1872), respectively, of the colonial era, which were more focused and based on British interest.³² These newly enacted laws have added new offences which include terrorism, mob lynching, organised crime, and enhanced punishments for crimes against women and children. These reforms are made to ensure transparency and efficiency in the criminal system and deliver justice in order to safeguard individuals' rights and provide safety and a sense of security to the public. However, the impact of these newly enacted laws depends on their implementation, public awareness and judicial interpretation. As the criminal justice system of Bharat has evolved as per different eras while addressing difficulties and facing them, along with which important amendments have been made as per the necessity of the society, it can be believed that the transformed laws will continue to uphold fairness and ensure justice in a similar manner.

²⁶ Code of Criminal Procedure (1973).

²⁷ Code of Criminal Procedure (1973).

²⁸ Code of Criminal Procedure (1973).

²⁹ Bharatiya Nyaya Sanhita (2023).

³⁰ Bharatiya Nagarik Suraksha Sanhita (2023).

³¹ Bharatiya Sakshya Adhinyam (2023).

³² New Criminal Laws Come into Force, Drishti IAS, (July 01, 2024), <https://www.drishtiias.com/daily-updates/daily-news-analysis/new-criminal-laws-come-into-force>, (last accessed Feb 20, 2025).

1. BHARATIYA NYAYA SANHITA, 2023³³

Bharatiya Nyaya Sanhita, 2023³⁴, has substituted Indian Penal Code, 1860³⁵, consisting of 358 sections in 20 chapters, compared to the IPC, which featured 511 sections in 23 chapters in total.³⁶ Although most of the IPC sections remain the same in BNS, there have been some modifications also, such as adding new offences, eliminating court-struck down offences and enhancing penalties for various sections. This act has focused more on strengthening punishments for serious offences, it has equally included provisions for alternative sentencing and rehabilitation, ensuring a broader approach to justice.³⁷

2. BHARATIYA NAGARIK SURAKSHA SANHITA, 2023³⁸

Bharatiya Nagarik Sanhita, 2023³⁹ superseded the Code of Criminal Procedure, 1973⁴⁰ which contains a total of 531 sections in 39 chapters and 2 schedules with 177 sections revised, 9 new sections added and 14 sections repealed.⁴¹ However, CrPC contained 527 sections in 37 chapters.⁴² BNSS simplifies the law by repealing and amending a number of provisions of the existing legislation i.e. CrPC. The BNSS protects the accused's rights by guaranteeing certain protections, including the right to counsel, the right to silence, and the right to a fair trial. It's seeking to reducing delays. improve the efficiency of the Criminal System by Streamlining procedures and reducing delays.⁴³

3. BHARATIYA SAKSHYA ADHINIYAM (BSA), 2023.⁴⁴

Bharatiya Sakshya Adhiniyam, 2023⁴⁵ replaced Indian Evidence Act, 1872⁴⁶ which contains a total of 170 sections divided into 12 chapters with altering 24 sections, adding 2 new sections

³³ Bharatiya Nyaya Sanhita (2023).

³⁴ Bharatiya Nyaya Sanhita (2023).

³⁵ Indian Penal Code (1860).

³⁶ Bharatiya Nyaya Sanhita (2023).

³⁷ Overview of Major Reforms in All Criminal Laws and Philosophy behind introducing reforms in Criminal Laws, (last accessed Feb 20, 2025).

³⁸ Bharatiya Nagarik Suraksha Sanhita (2023).

³⁹ Bharatiya Nagarik Suraksha Sanhita (2023).

⁴⁰ Code of Criminal Procedure (1973).

⁴¹ Drishti IAS, Bharatiya Nagarik Suraksha Sanhita, 2023, <https://www.drishtias.com/pdf/1723828479.pdf> (last accessed Feb 20, 2025).

⁴² Code of Criminal Procedure (1973).

⁴³ Mohit Agarwal, Bharatiya Nagrik Suraksha BNSS App Store (2024), <https://apps.apple.com/in/app/bharatiya-nagrik-suraksha-bnss/id6475357786> (last accessed Feb 20, 2025).

⁴⁴ Bharatiya Sakshya Adhiniyam (2023).

⁴⁵ Bharatiya Sakshya Adhiniyam (2023).

⁴⁶ Indian Evidence Act (1872).

and repealing 6 of 167 sections of the Indian Evidence Act, 1872⁴⁷. However, Indian Evidence Act, 1872⁴⁸ contained 167 sections in 11 chapters.⁴⁹ The Bharatiya Sakshya Adhiniyam, 2023⁵⁰ is an medium to bring a change in the current evidence laws of the country as the experience of seven decades of Indian democracy calls for a more comprehensive review of our criminal laws, including Evidence Act, 1872 and adapt them in accordance with the contemporary needs and aspirations of the people.⁵¹

COMPARATIVE STUDY OF EXISTING AND NEWLY IMPLEMENTED LAWS

(NOTE: C - Cognizable, NC – Non-Cognizable, B – Bailable, NB – Non Bailable)

A) Bharatiya Nyaya Sanhita, 2023⁵² v. Indian Penal Code, 1860⁵³

Below are some of the BNS sections compared to that of IPC –

BNS	DESCRIPTION	C/NC	B/NB	IPC
Sec. 64 (1)	Punishment for rape ⁵⁴	C	NB	Sec. 376 (1), (2)
Sec. 103 (1)	Punishment for murder ⁵⁵	C	NB	Sec. 302
Sec. 98	Selling child for purposes of prostitution, etc. ⁵⁶	C	NB	Sec. 372
Sec. 309 (4)	Punishment for robbery ⁵⁷	C	NB	Sec. 392
Sec. 324 (2)	Punishment for Mischief ⁵⁸	NC	B	Sec. 426

Following is some of the sections which are newly added to and eliminated from BNS –

SOME NEWLY ADDED SECTIONS IN BNS –

- Sec. 48 - Abetment outside India for offence in India.⁵⁹

⁴⁷ Indian Evidence Act (1872).

⁴⁸ Indian Evidence Act (1872).

⁴⁹ Indian Evidence Act (1872).

⁵⁰ Bharatiya Sakshya Adhiniyam (2023).

⁵¹ Rachit Garg, Admissibility and evidentiary value of Electronic Records iPleaders (2021), <https://blog.ipleaders.in/admissibility-evidentiary-value-electronic-records> (last accessed Feb 20, 2025).

⁵² Bharatiya Nyaya Sanhita (2023).

⁵³ Indian Penal Code (2023).

⁵⁴ Bharatiya Nyaya Sanhita, s376(1) (2023).

⁵⁵ Bharatiya Nyaya Sanhita, s302 (2023).

⁵⁶ Bharatiya Nyaya Sanhita, s372 (2023).

⁵⁷ Bharatiya Nyaya Sanhita, s392 (2023).

⁵⁸ Bharatiya Nyaya Sanhita, s426 (2023).

⁵⁹ Bharatiya Nyaya Sanhita, s48 (2023).

- Sec. 69 – Sexual intercourse by employing deceitful means, etc.⁶⁰.
- Sec. 103 (2) – Murder by group of 5 or more persons.⁶¹
- Sec. 111 (1) – Organised crime.⁶²
- Sec. 113 (1) – Offense of terrorist act.⁶³
- Sec. 304 – Snatching.⁶⁴

SOME ELIMINATED SECTIONS FROM BNS –

- Sec. 310 – Thugs.⁶⁵
- Sec. 377 – Unnatural sexual offences.⁶⁶
- Sec. 497 – Adultery.⁶⁷

B) Bharatiya Nagarik Suraksha Sanhita, 2023⁶⁸ v. Code of Criminal Procedure, 1973⁶⁹

Below are some of the BNSS sections compared to that of CrPC -

BNSS	DESCRIPTION	CrPC
Sec. 184	Medical examination of victim of rape ⁷⁰	Sec. 167A
Sec. 193	Report of police officer on completion of investigation ⁷¹	Sec. 173
Sec. 263	Framing of charge ⁷²	Sec. 240
Sec. 308	Evidence to be taken in presence of accused ⁷³	Sec. 273
Sec. 396	Victim Compensation Scheme ⁷⁴	Sec. 357A

Following are some of the sections which are newly added to and eliminated from BNSS –

SOME NEWLY ADDED SECTIONS IN BNSS –

- Sec. 105 – Recording of search and seizure through audio-video electronic means⁷⁵

⁶⁰Bharatiya Nyaya Sanhita, s69 (2023).

⁶¹Bharatiya Nyaya Sanhita, s103 (2) (2023).

⁶²Bharatiya Nyaya Sanhita, s111 (1) (2023).

⁶³Bharatiya Nyaya Sanhita, s113 (1) (2023).

⁶⁴Bharatiya Nyaya Sanhita, s304 (2023).

⁶⁵ Bharatiya Nyaya Sanhita, s310 (2023).

⁶⁶Bharatiya Nyaya Sanhita, s377 (2023).

⁶⁷Bharatiya Nyaya Sanhita, s497 (2023).

⁶⁸ Bharatiya Nagarik Suraksha Sanhita (2023).

⁶⁹ Code of Criminal Procedure (1973).

⁷⁰Bharatiya Nagarik Suraksha Sanhita, s167A (2023).

⁷¹Bharatiya Nagarik Suraksha Sanhita, s173 (2023).

⁷²Bharatiya Nagarik Suraksha Sanhita, s240 (2023).

⁷³Bharatiya Nagarik Suraksha Sanhita, s273 (2023).

⁷⁴Bharatiya Nagarik Suraksha Sanhita, s352A (2023).

⁷⁵Bharatiya Nagarik Suraksha Sanhita, s105 (2023).

- Sec. 336 – Evidence of public servants, experts, police officers in certain cases⁷⁶
- Sec. 356 – Inquiry, trial or judgment in absentia of proclaimed offender⁷⁷
- Sec. 398 – Witness protection scheme⁷⁸
- Sec. 472 – Mercy petition in death sentence cases.⁷⁹
- Sec. 530 – Trial and proceedings to be held in electronic mode.⁸⁰

SOME ELIMINATED SECTIONS FROM BNSS –

- Sec. 144A. Power to prohibit carrying arms in procession or mass drill or mass training with arms.⁸¹
- Sec. 153 - Inspection of weights and measures.⁸²
- Sec. 355 – Metropolitan Magistrate's Judgment.⁸³

C) Bharatiya Sakshya Adhiniyam, 2023⁸⁴ v. Indian Evidence Act, 1952⁸⁵

Below are some of the BNSS sections compared to that of CrPC –

BSA	DESCRIPTION	IEA
Sec. 23	Confession to police officer	Sec. 25,26,27
Sec. 55	Oral evidence to be direct ⁸⁶	Sec. 60
Sec. 63	Admissibility of electronic records ⁸⁷	Sec. 65B
Sec. 104	Burden of Proof ⁸⁸	Sec. 101
Sec. 134	Confidential communication with legal advisers ⁸⁹	Sec. 129

Following is some of the sections which are newly added to and eliminated from BSA –

SOME NEWLY ADDED SECTIONS IN BSA –

⁷⁶Bharatiya Nagarik Suraksha Sanhita, s336 (2023).

⁷⁷Bharatiya Nagarik Suraksha Sanhita, s356 (2023).

⁷⁸Bharatiya Nagarik Suraksha Sanhita, s398 (2023).

⁷⁹Bharatiya Nagarik Suraksha Sanhita, s 472 (2023).

⁸⁰Bharatiya Nagarik Suraksha Sanhita, s530 (2023).

⁸¹Bharatiya Nagarik Suraksha Sanhita, s144A (2023).

⁸²Bharatiya Nagarik Suraksha Sanhita, s153 (2023).

⁸³Bharatiya Nagarik Suraksha Sanhita, s355 (2023).

⁸⁴ Bharatiya Sakshya Adhiniyam (2023).

⁸⁵ Indian Evidence Act (1952).

⁸⁶Bharatiya Sakshya Adhiniyam, s60 (2023).

⁸⁷Bharatiya Sakshya Adhiniyam, s65B (2023).

⁸⁸Bharatiya Sakshya Adhiniyam, s101 (2023).

⁸⁹Bharatiya Sakshya Adhiniyam, s129 (2023).

- Sec. 61- Electronic or digital record.⁹⁰
- Sec. 170 - Repeal and savings.⁹¹

SOME ELIMINATED SECTIONS FROM BSA –

- Sec. 22A - When oral admission as to contents of electronic records are relevant.⁹²
- Sec. 82 - Presumption as to document admissible in England without proof of seal or signature.⁹³
- Sec. 88 - Presumption as to telegraphic messages.⁹⁴

CONCLUSION

The evolution of criminal laws in Bharat represents a continuous journey of progress which is shaped by historical, cultural and socio-political changes. Since the beginning, ancient codified laws like Manusmriti and Arthashastra to the British-imposed laws like the Indian Penal Code, 1860, and the Indian Evidence Act, 1872, criminal laws in Bharat have evolved and gained a structured legal framework which changes as per the needs of the society. However, since independence, various interpretations and modifications or amendments have been made to criminal statutes to bring them into accordance with constitutional principles. As a result, these amendments and judicial interpretations have attempted to protect the rights of the individuals while ensuring fairness and justice at the same time. The newly implemented laws in 2023, such as the Bharatiya Nyaya Sanhita, Bharatiya Sakshya Adhiniyam and Bharatiya Nagarik Suraksha Sanhita, are the most recent and major changes in the criminal justice system. This indicates clearly that Bharat is moving towards modernising and decolonising the legal framework. Eventually moving forward, Bharat must ensure that it continues to maintain a just, efficient and responsive criminal justice system to safeguard the rights of its citizens.

⁹⁰Bharatiya Sakshya Adhiniyam, s61 (2023).

⁹¹Bharatiya Sakshya Adhiniyam, s170 (2023).

⁹²Bharatiya Sakshya Adhiniyam, s22A (2023).

⁹³Bharatiya Sakshya Adhiniyam, s82 (2023).

⁹⁴Bharatiya Sakshya Adhiniyam, s88 (2023).

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3. Code of Criminal Procedure, 1898.
4. Code of Criminal Procedure, 1973.
5. Bharatiya Nyaya Sanhita, 2023.
6. Bharatiya Nagarik Suraksha Sanhita, 2023.
7. Bharatiya Sakshya Adhiniyam, 2023.