

# Major Criminal Laws in India



*By: Ishita Dhaila*

2024

*Sn. The need for reforms in Indian criminal law:*

---

1. Introduction
2. Reasons for why crimes occur in the society:
3. The sources of Criminal law in India
4. Top Three Criminal Laws in India
  - 4.1 INDIAN PENAL CODE, 1860
  - 4.2 CRIMINAL PROCEDURE CODE, 1974
  - 4.3 INDIAN EVIDENCE ACT, 1872
5. Other Criminal laws in India
  - 5.1 THE CRIMINAL LAW AMENDMENT ACT, 2013
  - 5.2 THE NARCOTICS AND DRUGS PSYCHOTROPIC ACT(NDPS),1985
  - 5.3 THE PREVENTION OF CORRUPTION ACT, 1988
  - 5.4 THE PREVENTION OF FOOD ADULTERATION ACT, 1954
6. Criminal laws explicitly for Woman
  - 6.1 THE DOWRY PROHIBITION ACT, 1961
  - 6.2 THE COMMISSION OF SATI(PREVENTION)ACT, 1987
  - 6.3 THE INDECENT REPRESENTATION OF WOMAN(PROHIBITION) ACT, 1987
  - 6.4 THE PROTECTION OF WOMAN FROM DOMESTIC VIOLENCE ACT(PWDVA),2005
  - 6.5 THE IMMORAL TRAFFIC(PROTECTION) ACT, 1956
7. Criminal laws explicitly for Children
  - 7.1 THE JUVENILE JUSTICE PROTECTION AND CARE 2000
  - 7.2 THE PROTECTION OF CHILDREN FROM SEXUAL OFFENSES, 2012
8. The need for reforms in Indian criminal law

## INTRODUCTION:

There is no society known where a developed criminality is not found under different forms. No person exists whose morality is not daily infringed upon. We must, therefore, call crime necessary and declare that it cannot be non-existent, that the fundamental conditions of social organization, as they are understood, logically imply it." -Emile Durkheim

Any community will have crime, which is often described as any unlawful activity that is penalized by law, as well as criminal legislation. The term "criminal law" is composed of simply two words, although it encompasses several behaviors. Any criminal law's primary purpose is to use the legal system to punish the guilty and give the harmed party justice. Criminal law can be defined as the corpus of laws that address crimes such as theft, murder, sexual abuse, and threats. It is also responsible for holding criminal trials for those found guilty.

India's crime rate is rising quickly, hence strict rules are required to prevent and discourage these kinds of actions, keeping our society safe and free from crime. Therefore, we shall examine the fundamentals of criminal law as well as all legislation passed with the intention of protecting society from criminals in the upcoming essay.

Reasons for why crimes occur in the society:

There are various motives behind a criminal's actions. Some criminals commit crimes for financial gain because it's one of the quickest methods to do it; others, among other reasons, do it to become famous. Some criminals, though, are completely different. In the 1960s, Raman Raghav tormented Mumbai by killing several individuals he did not even know, and he felt no remorse whatsoever for committing such heinous crimes. In his book "The footprints on the sand of crime," DPC Kulkarni advanced the theory that these offenders are merely "incorrigible," lacking any motivation or advantage from their actions.

There are also cases where a crime is carried out with the proper authorization and was previously under the control of governmental agencies. For instance, Indian farmlands were misappropriated even during the British colonial era when farmers were ordered to cultivate opium rather than food-grains in both Chinese and Indian territory. Given the high profit margins connected with drugs like opium and hashish, farmers are increasingly choosing to cultivate these crops over other vegetables.

### History of Criminal law in India

The Vedic era and the rule of the Muslim and Hindu kingdoms are the historical origins of the compilation of contemporary criminal laws. That did, however, begin to take shape throughout the British era. England's laws and customs serve as the foundation for the current criminal justice system. Because these techniques were both modern and practical, a significant portion of the criminal laws in place today are derived from those that were put in place during the British era.

### The sources of Criminal law in India

The penal legal system established by the British in India serves as the foundation for both the criminal justice system and the corresponding criminal statutes. After 75 years of independence, if we were to examine the criminal laws and the criminal justice system today, we would find that neither the legislation nor the system has undergone any significant modifications. One of the most prominent instances of an antiquated legal framework is found in Section 124A of the Indian Penal Code (IPC), 1860. This section addresses sedition and outlines the prescribed penalty for it.

However, it is important to remember that attempts were made in 1973 to alter the entire Code of Criminal Procedure. The Vohra Committee's appointment marked the first step in improving the criminal justice system in India. The Vohra committee's 1993 study noted how Indian politicians, bureaucrats, and criminals are connected, as well as how politics has become criminalized.

Furthermore, the Indian government made yet another attempt in 2000 to suggest changes to the antiquated criminal justice system. A committee headed by Justice V.S. Malimath, the former Chief Justice of Kerala and Karnataka, was established and later named the Malimath Committee. Sadly, it appears that none of the 158 suggestions made by the Malimath Committee in its 2003 report were implemented. This Committee felt that the current system "did not

adequately focus on justice to the victims of crime and weighed in favor of the accused."

Considering all the claims, it is reasonable to say that the criminal justice system urgently needs reformations. The suggestions for these changes will be covered in the paragraphs that follow.

Top Three Criminal laws in India:

Let's take a quick look at each of the top three statutes that govern criminal law in India: The Indian Evidence Act of 1872, the Criminal Procedure Code (CPC) of 1974, and the Indian Penal Code (IPC) of 1860.

#### 1. INDIAN PENAL CODE, 1860

The Indian Penal Code (IPC) is the main legislation that governs criminal acts and the penalties that an offender must endure. Approval of such a law would primarily aim to provide India's criminal justice system with an all-inclusive penal code that addresses all offenses.

The Indian Penal Code governs all of India. Lawbreaking penalties are imposed both inside and outside of India, but the trial needs to happen there.

Regardless of where a person is located outside of India, the Indian Penal Code (IPC) has extraterritorial jurisdiction over crimes committed on board ships or aircraft registered in India. The justification for this is that it is based on the notion that every nation has the right to exert control and take on leadership positions.

#### LIMITATIONS OF IPC

##### 1. OLD LAWS

Concepts from the colonial era are present in the Code. It is based on the colonial sentiments of the British government in India. For instance, Section 375 of the IPC requires a gender-neutral definition of rape. Men, eunuchs, hijras, or boys are not included in this section; only women are currently recognized victims of rape.

## 2. BIASED TOWARDS FEMALES

Numerous laws are discriminatory against women and promote patriarchal beliefs. In India, most of the criminal legislation are framed from a male standpoint. Men are superior to women, as evidenced by Section 125 of the CrPC, which stipulates that a husband is expected to support his wife, children, and parents if they are unable to support themselves. Before enacting any such legislation, gender equality must be taken into consideration.

## 3. ABUSE OF THE SEDITION LAW

Instead of using sedition laws, the state often misapplies them. The British originally implemented it in 1898 to quell any rebellion against them and to crush the movements for freedom. It is described in the IPC's Section 124A. Nevertheless, this Section is currently being abused by government officials who hold positions of authority. One recent example of the misuse of the sedition act is the arrest of Disha Ravi in 2021 in connection with a handbook on farmer demonstrations. She was subsequently granted bail by the Delhi trial court.

## 4. MANY ACTIVITIES LACKS SUFFICIENT DEFINITION

For many offenses, including tech crimes, cybercrimes, and sexual offenses, clarification is necessary. For instance, marital rape is no longer specifically recognized as a crime under the law. One instance of this that has gone successfully is the liberalization of Section 377, which criminalized homosexuality and was fashioned after the Victorian era.

## 5. THE POLICE

There's a potential that the existing IPC may lead to policing, which is the word for arbitrary police intervention, and it will bother people. For instance, Section 294 of the IPC states that it is unlawful to perform any obscene act in a public setting and to annoy others. However, the word "obscene" has no exact definition, thus the police often unfairly use it against people.

## 6. 6. Penalties determined by the judges' discretion

Some laws, including those that deal with mob lynching, don't outline the maximum punishment, term of jail, or amount of fine. Because of this, the court is better equipped to determine the suitable sentence, which may change based on the situation.

## 7. Reformation and community service have no place here.

Chapter III of the IPC has highly strict and archaic punishments; only provisions for fines and penalties are legislated under it. It is imperative that these regulations be changed in the twenty-first century. Chapter III might be used to impose community service or other alternatives to penalties and punishments, like the reformation of criminals.

## 2. THE CRIMINAL PROCEDURE CODE, 1974:

The Criminal Procedure Code (CrPC) is a procedural law that outlines the norms and procedures that courts must adhere to throughout an investigation, inquiry, or trial, as well as how the police apparatus should function. When the 1973 Code of Criminal Procedure came into effect, the 1908 Code of Criminal Procedure was still in effect. There are currently two schedules, 56 forms, 484 sections, and 37 chapters in the 1973 Criminal Procedure Code. The CrPC categorizes a variety of offenses, including those that are bailable, non-bailable, cognizable, and non-cognizable. Each has been briefly discussed above.

Recognizing the vital role that procedural law plays in attaining and putting into effect substantial law is essential, especially in light of the fact that significant law (IPC) serves as the primary safeguard for society. The legal system treats certain offenses in different ways. A number of actions are covered by the CrPC, such as conducting an investigation, gathering evidence, and filing a First Information Report.<sup>17</sup>

## 3. THE INDIAN EVIDENCE ACT, 1872

Section 1 of the Indian Evidence statute states that the entire nation of India is covered by the statute, which became operative on September 1st, 1872. It regulates relevant issues and statutes that determine the admissibility of evidence in Indian courts. It is currently divided into 11 chapters that include 167 sections each.

It's interesting to note that the Jammu and Kashmir Reorganization Act, 2019, applied to all of India until the words "except the State of Jammu and Kashmir" were removed.

## OTHER CRIMINAL LAWS IN INDIA:

### 1. THE CRIMINAL LAW AMENDMENT ACT, 2013:

The Criminal Law Amendment Act, 2013 was passed in response to the 2012 gang rape of a female student in the Nirbhaya case (discussed in more detail below). The Indian Evidence Act, the CrPC, and the IPC—the three Acts that were previously mentioned—were changed by this Act.

This Act acknowledged and included several IPC offenses, such as:

1. Acid attack (Section 326A and Section 326B),
2. Sexual harassment (Section 354A),
3. Voyeurism (Section 354C),
4. Attempt to disrobe a woman (Section 354B),
5. Stalking (Section 354D), and
6. Sexual assault which causes death or injury causing a person to be in a persistent vegetative state (Section 376A).

The Act also made the previously passed statutes' provisions stronger. Among the most important changes may be the addition and enlargement of acts other than penetration to the definition of rape under Section 375. In addition, Section 375 was replaced with Sections 370 and 370A. This Act was further amended in 2018.

### 2. THE NARCOTICS AND DRUGS PSYCHOTROPIC ACT (NDPS), 1985

The Narcotics Drugs and Psychotropic Act, 1985, often known as the NDPS Act, went into effect on November 14th, 1985. There have been three rounds of edits. Before 1985, there were no laws governing drugs. The purpose of the NDPS Act in India is to make it illegal to produce, process, cultivate, possess, purchase, sell, transport, store, and/or consume any sort of narcotic or psychotropic substance.

The NDPS Act underwent three revisions in 1989, 2001, and 2014.

### 3. THE PREVENTION OF CORRUPTION ACT, 1988

The Prevention of Corruption Act, 1988 was passed in order to fight corruption and misconduct in Indian government organizations and public sector businesses. This Act is divided into five chapters and thirty-one sections. Because the 1988 Act did not



effectively reduce corruption or make public servants or officials accountable for their conduct, it was updated twice: once in 2013 and again in 2018.

In compliance with the PCA Act, the Central Government may appoint judges and conduct trials in the following cases:

1. For those offenses, this Act establishes penalties.
2. An effort or plot to commit an infraction covered by the provisions of this Act.

#### 4. THE PREVENTION OF FOOD ADULTERATION ACT, 1954

On September 29, 1954, the president signed the Prevention of Food Adulteration Bill into law after it had been approved by both chambers. On June 1st, 1954, the Prevention of Food Adulteration Act (PFA Act) became operative.

The principal objective of the Act is as follows:

1. To pass laws aimed at preventing the adulteration of food.
2. To shield humans from any dangerous, lethal, or toxic food.
3. To stop or seize the sale of subpar food.
4. To protect the interests of customers by prohibiting dishonest behavior.

The PFA Act saw three revisions in 1964, 1976, and 1986.

#### CRIMINAL LAWS EXPLICITLY FOR WOMAN:

##### 1. THE DOWRY PROHIBITION ACT, 1961

The Dowry Prohibition Act, 1961 was passed on May 1st, 1961, in an attempt to outlaw the giving and receiving of dowries. Alongside this Act, other IPC sections were also changed to allow for the protection of female victims of such heinous crimes. All Indian citizens are covered by this Act, regardless of their religious beliefs.

The Act penalizes the following for committing such a crime:

##### SECTION 3

Section 3 of the Act states that anyone who gives, accepts, or aids in the giving of dowry faces a minimum sentence of five years in jail and a maximum fine of fifteen thousand rupees, or the total value of the dowry, whichever is higher.

##### Section 4

As per Section 4 of the Act, an individual who demands dowry, whether directly or indirectly, from the parents, other relatives, or any guardian of a bride or bridegroom faces a minimum of six months' imprisonment, a maximum of two years' imprisonment, and a fine of up to ten thousand rupees.

## 2. THE COMMISSION OF SATI(PREVENTION)ACT, 1987

The terrible and immoral ceremony known as Sati, which was practiced often between 1680 and 1830, involved burning widows and their deceased spouses alive.

The Commission of Sati (Prevention) Act, 1987 originated from the Rajasthan Sati Prevention Ordinance, 1987, which was enacted by the Rajasthan State Government. There was a national outcry because Rupkunvar from Deorala hamlet had become the victim of sati.

Interesting fact: The Rupkunvar case cited earlier was the last known instance of sati in India. She was an eighteen-year-old widow who perished in the funeral pyre of her late husband. Her shocking demise shook the nation and aided in the passage of new legislation banning such terrible rituals.

## 3. THE INDECENT REPRESENTATION OF WOMAN(PROHIBITION) ACT, 1987

The Indian Penal Code comprised and still comprises multiple sections, such as:

Sections 292 and 292A (selling, hiring, distributing, etc.) and 294 (performing obscene acts or playing illicit tunes in public) were the laws that were meant to prohibit indecent representation of women. Women's organizations, however, held numerous rallies and made submissions to pass an ordinance that would eliminate this evil as these laws proved to be unsuccessful. Eventually, Parliament passed the Indecent Representation of Women (Prohibition) Act, 1987, which became operative on October 2nd, 1987.

This Act stipulates that anyone found to have harassed a woman with an indecent representation in books, photos, paintings, films, pamphlets, packages, etc. will serve a minimum of two years in prison.

## 4. THE PROTECTION OF WOMAN FROM DOMESTIC VIOLENCE ACT(PWDVA),2005

The Protection of Women from Domestic Violence Act, 2005 (PWDVA Act) was passed in 2005 and became operative in October of the same year. This Act makes clear the forms of abuse listed in Section 3 of the Act that are domestic violence:

Physical abuse,

Sexual abuse,  
Verbal and emotional abuse, and  
Economic abuse.

Furthermore, it expands the definition of domestic ties to include mothers, wives, daughters, sisters-in-law, and daughters. The principal objective of the Act is to safeguard women against domestic abuse.

#### 5. THE IMMORAL TRAFFIC(PROTECTION) ACT, 1956

Certain states have laws against human trafficking in place prior to their independence. However, they were insufficient, which is why passing laws to deal with the problem was imperative.

The SITA Act, also called the Suppression of Immoral Traffic in Women and Girls Act, 1956, was enacted as a result. This Act was amended in 1986. It was first enacted on August 20, 1986, and was dubbed the Immoral Traffic (Prevention) Act, 1956.

#### CRIMINAL LAWS EXPLICITLY FOR CHILDREN

No crime is committed unless the reason or aim behind it is deemed criminal; in other words, an act by itself does not convict a person unless it was their objective to conduct a crime. Under penal rules, however, a child's criminal responsibility is entirely waived depending on the circumstances surrounding the conduct, such as the child's age and knowledge level. For instance, under the IPC, no child under the age of seven commits a crime. The following offenses are classified as crimes by juveniles under the Indian Penal Code:

##### 1. Section 82

It declares that a youngster under the age of seven cannot commit any crimes.

##### 2. Section 83

It declares that no crime is committed by a youngster who is older than seven but less than twelve and who lacks the maturity to understand the consequences of their actions.

The Latin proverb "Doli incapax" translates to "incapable of doing any harm/wrong" or "incapable of committing a crime." The previously mentioned sections operate under the premise that a child is incapable of committing a crime.

## 1. THE JUVENILE JUSTICE PROTECTION AND CARE 2000

One of the most significant laws addressing juvenile criminality after India attained independence was the Juvenile Justice (Care and Protection) Act, 2000. It made the country abide by the 1989 Convention on the Rights of the Child.

A person under the age of eighteen was never tried in an adult court; instead, they were tried as minors. In the widely reported “Nirbhaya Devi gang rape case,” which happened on December 16, 2012, and had an impact on the entire country, this was the law that angered the Indian populace.

The Juvenile Justice (Care and Protection) Act, 2000 has been superseded by the Juvenile Justice (Care and Protection) Act, 2015, which must be acknowledged.

## 2. THE PROTECTION OF CHILDREN FROM SEXUAL OFFENSES, 2012

The Protection of Children from Sexual Offenses Act, 2012, or POCSO Act, was passed in order to provide robust legal safeguards for minors against offenses like:

sexual assault, harassment, pornography, and other similar incidents, all the while supporting children throughout the court case.

By including features that make it easy to use and enable child-friendly reporting, evidence recording, investigation, and a speedy trial of criminals through special courts, the Act's design emphasizes the interests of children. Aiding and abetting child sexual abuse is illegal under the Act.

### Way Forward

The need for reforms in Indian criminal law:

The Indian government has recently started working to change several criminal laws, including the Indian Evidence Act, the CrPC, and the IPC. There is an urgent need for adjustments to these antiquated rules because they were passed during the British era, which is still largely the case in the twenty-first century. The following are the main drivers behind the need for criminal law reform:

1. Considering the colonial era

The British colonial jurisprudence, which was developed with the intention of governing the country rather than serving the people, is exactly replicated in the criminal justice system.

## 2. Inadequacy

Criminal laws are meant to protect the rights of the innocent and punish bad, but in the modern world, they are also used to harass regular people.

## 3. Cases pending

The Economic Survey of 2018–19 estimates that there are around 3,500 crore cases outstanding in the legal system, primarily in district and subordinate courts. This leads us to the conclusion that "justice denied is justice delayed."

## 4. Large-scale under-trials prisoners/hostages

There are a lot of under-trial inmates in India. According to National Crime Record Bureau (NCRB) jail statistics from 2015, under-trial inmates make up around 67.2% of the overall prison population.

## 5. Examine

An enormous workload, police accountability, and corruption are some of the main barriers to the prompt and open administration of justice. Given the considerations, it is safe to conclude that the antiquated criminal laws require revision as soon as possible.