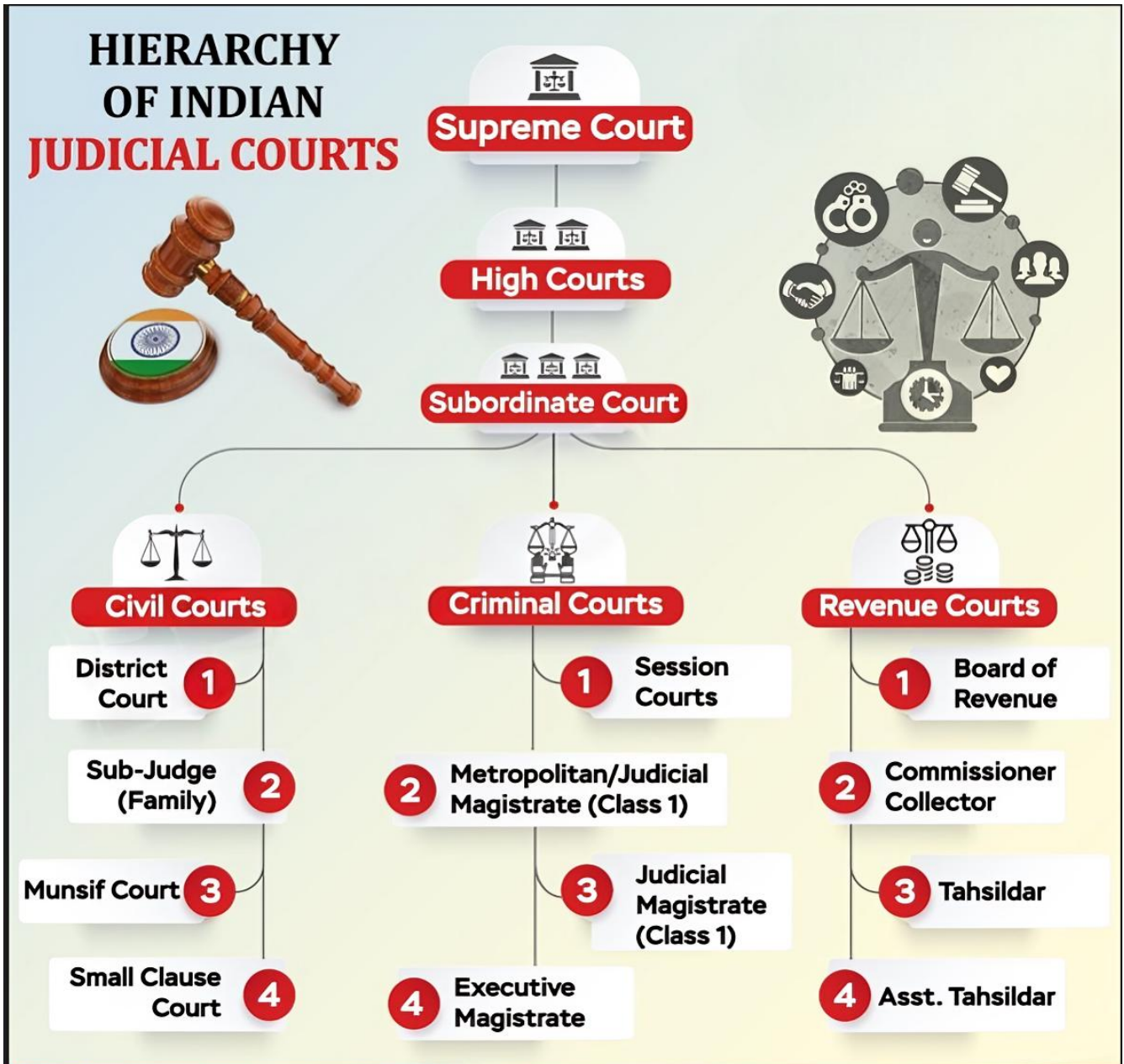


Paper -III

BASIC KNOWLEDGE OF LAWS IN INDIA

Civil and Criminal laws:

Hierarchy of Civil and Criminal Courts in India



SUPREME COURT OF INDIA

1. Supreme Court of India

The **Supreme Court (SC)** is the highest judicial authority and the final court of appeal in India. It serves as the **apex constitutional court** with the power of **judicial review**, ensuring that laws comply with the Constitution.

Constitutional Provisions:

- **Articles 124 to 147 (Part V, Chapter IV)** of the Indian Constitution govern the Supreme Court.
- The **Parliament** has the authority to regulate matters related to the Supreme Court under these provisions.

Role of the Supreme Court:

1. **Highest Court of Appeal** – It hears appeals from High Courts and lower courts.
2. **Final Interpreter of the Constitution** – It provides the ultimate interpretation of constitutional provisions.
3. **Protector of Fundamental Rights** – It ensures the enforcement of citizens' fundamental rights.
4. **Guardian of the Constitution** – It upholds constitutional supremacy and prevents unconstitutional actions.

Powers & Jurisdiction:

- The Supreme Court's rulings are **binding on all courts** in India.
 - Its **decrees and orders** are enforceable nationwide.
 - It exercises **judicial superintendence** over all courts and tribunals in the country.
-

2. High Courts in States

The **High Court** is the highest judicial authority at the **state level**, functioning below the Supreme Court. It oversees and exercises control over the **subordinate courts** within its jurisdiction.

Constitutional Provisions:

- **Articles 214 to 231 (Part VI, Chapter V)** of the Constitution deal with the structure, powers, and functions of High Courts.

Role of the High Court:

1. **Interpretation of the Constitution** – High Courts have the authority to interpret constitutional provisions within the state.
2. **Protector of Fundamental Rights** – They safeguard citizens' rights through writ jurisdiction (Article 226).
3. **Supervisory and Consultative Functions** – High Courts oversee the functioning of subordinate courts and advise the state government on legal matters.

3. Control Over Subordinate Courts

High Courts exercise **administrative and judicial control** over subordinate courts in their respective states.

Key Powers:

- **Superintendence** – The High Court has the power of superintendence over all **courts and tribunals** in its jurisdiction.
- **Judicial Appointments** – The High Court is consulted by the **Governor** in matters related to:
 - Appointment, posting, and promotion of **district judges**.
 - Recruitment and appointment of **judicial officers** in the state judiciary.
- **Binding Authority** – The decisions of the High Court are binding on **all subordinate courts** within the state.

4. Subordinate Courts

Subordinate Courts function below the High Courts and form the **foundation of the judiciary** at the district and local levels.

Constitutional Provisions:

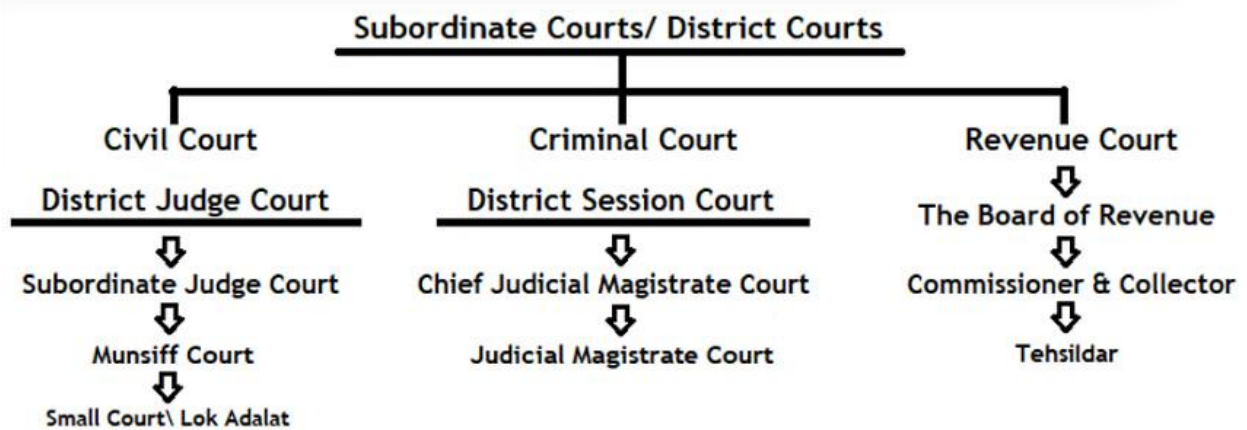
- Articles **233 to 237** (Part VI, Chapter VI) regulate the **organization, appointment, and administration** of Subordinate Courts.

Structure & Functions:

- The structure of subordinate courts is **uniform across India**, consisting of:
 1. **District Courts** – Handle civil and criminal cases at the district level.
 2. **Sessions Courts** – Deal with serious criminal cases, including offenses punishable with life imprisonment or the death penalty.

- 3. **Magistrate Courts** – Handle petty criminal cases and preliminary inquiries.
- 4. **Civil Judge Courts** – Deal with civil disputes, including property, contracts, and family matters.

Article 233	Related to the appointment of District Judges
Article 234	Concerns about the appointment of others except for the District Judges
Article 235	Mentions about the control over the Subordinate Court
Article 236	Talks about the interpretation
Article 237	Related to the application of the provisions to Magistrates



4. Subordinate Civil Courts (Below District Courts)

- **Senior Civil Judge Court / Subordinate Judge Court**
 - Handles higher-value civil cases at the district level.
 - Can hear appeals from Munsif Courts.
- **Munsif Court / Junior Civil Judge Court**
 - Deals with small-value civil suits.
 - First level of civil litigation.

5. Small Causes Court (Metropolitan Areas)

- Handles minor civil cases, such as rent disputes and money recovery.
- Present in metro cities like Mumbai, Chennai, and Kolkata.

Flow of Civil Cases in the Hierarchy:

Munsif Court → Subordinate Judge Court → District Court → High Court → Supreme Court.

5. Magistrate Courts (First Class & Second Class)

- **First Class Magistrate:** Can impose imprisonment up to 3 years.
- **Second Class Magistrate:** Can impose imprisonment up to 1 year.
- Handles **bailable and non-bailable offenses** (except serious ones).

6. Executive Magistrates (Under District Collector)

- Maintain **law and order (Section 144 CrPC)**.
- Can issue **banning orders during riots or protests**.

Flow of Criminal Cases in the Hierarchy:

Magistrate Court → Sessions Court → High Court → Supreme Court.

Special Courts in India

In addition to the regular hierarchy, special courts handle specific types of cases:

Special Court	Jurisdiction
Family Courts	Matrimonial disputes, divorce, child custody
CBI Courts	Corruption cases involving Central Government officials
NDPS Courts	Drug-related offenses (Narcotics Act, 1985)
POCSO Courts	Child sexual abuse cases
Fast-Track Courts	Speedy trial of rape & sexual offenses
Cyber Crime Courts	Internet frauds, hacking, online defamation

JUDGEMENTS

BNSS vs. CrPC: Key Changes in Magistrate's Role Under Section 175(3) Explained by Supreme Court

By Law Trend February 3, 2025 12:34 PM

Under the Code of Criminal Procedure, 1973, the judicial magistrates were designated as metropolitan magistrates in metropolitan areas with a population of 10 lakh or more. In the hierarchy of courts under the court of sessions, there were provisions for different courts. In the metropolitan cities, there were chief metropolitan magistrate courts and first class metropolitan magistrate courts, but this classification between the lower courts of metropolitan cities and the non-metropolitan cities has been done away with under the BNSS.

Likewise, the designation of "additional chief metropolitan magistrate" has been changed to "additional chief judicial magistrate", "special metropolitan magistrate" to "special judicial magistrate", and "metropolitan magistrate" to "judicial magistrate" in both cities. Following the implementation of the commissionerate system in Jodhpur and Jaipur, which elevated them to metropolitan status, the govt incorporated the term 'metropolitan' into the designations of judicial officers.

Substantial and procedural laws

Meaning & Nature

Substantive laws define rights, responsibilities, crimes, and punishments. They are codified in statutes, influenced by precedents, and enacted through legislative processes. As per the Supreme Court in *Thirumalai Chemicals Ltd. v. Union of India (2011)*, substantive laws regulate rights and liabilities, while procedural laws provide mechanisms for their enforcement.

Sources of Substantive Laws

Substantive laws derive from:

1. **Common Law & Statutory Laws** – Pre-existing principles codified in legislation.
2. **Constitution** – Fundamental rights and legal provisions.
3. **Judicial Precedents** – Court rulings in similar cases.
4. **International Treaties & Agreements** – WTO rules, trade treaties, and EU directives.

Examples include **Indian Penal Code (IPC)**, **Indian Contract Act (1872)**, **Transfer of Property Act (1882)**, and **Specific Relief Act (1963)**.

Types of Substantive Laws

1. **Substantive Civil Laws**
 - Deals with disputes between individuals or organizations where compensation is awarded.
 - The plaintiff must prove harm or injury to claim remedies.
 - No constitutional protection is provided, but both parties have the right to appeal.
2. **Substantive Criminal Laws**
 - Defines criminal offenses and punishments.
 - Ensures punishment for offenders while compensating victims when applicable.
 - Provides constitutional protections to the accused, but only the defendant can appeal.
 - Examples: IPC (covers offenses like murder, rape, abduction), Domestic Violence Act (2005), Juvenile Justice Act (2000), and Sexual Harassment at Workplace Act (2013).

Limitations

- The judiciary can strike down unconstitutional laws.
- Example: *Supreme Court Advocates-on-Record Association v. Union of India (2016)* – The Supreme Court invalidated the **NJAC Act (2014)** for violating judicial independence.

In summary, substantive laws define legal rights and wrongs, ensuring justice through civil remedies and criminal punishments, while the judiciary safeguards their constitutional validity.

Procedural Laws

Meaning & Nature

Procedural laws, also known as Adjective Laws, provide the legal framework for enforcing substantive laws. They govern how courts hear cases, ensure due process, and maintain judicial fairness. These laws standardize procedures for filing cases, notifying parties, presenting evidence, and determining facts.

Sources of Procedural Laws

1. **Constitution** – Fundamental source ensuring due process.
2. **Statutory Laws** – Codified rules for court procedures.
3. **Judicial Precedents** – Past rulings shaping procedural norms.
4. **International Agreements** – Example: Aarhus Convention in environmental law.

Types of Procedural Laws

1. **Laws of Civil Procedure**
 - Regulate the process of civil trials and suits.
 - Define the role of plaintiffs, defendants, and government entities.
 - Example: **Code of Civil Procedure (CPC) in India**.
 - In India, one of the major civil procedural laws in India is [Code of Civil Procedure](#), 1908 which administers civil proceedings and implementations of civil orders and justice.
2. **Laws of Criminal Procedure**
 - Govern investigations, trials, evidence presentation, and sentencing.
 - Ensure fair prosecution and protection of rights.
 - Example: **Criminal Procedure Code (CrPC), 1973 in India**.
 - In India, the [Bharatiya Nagarik Suraksha Sanhita](#), 2023 (BNSS) earlier Criminal Procedure Code, 1973 (CrPC) outlines the procedures for prosecution and punishment, including arrest, investigation, bail, jurisdiction, appeals, revisions, and compounding of offenses. (V.V.IMP)

Stages of Criminal Procedure

- **Investigation Stage** – Arrest, evidence collection, witness examination.
- **Adjudication Stage** – Trial, determination of guilt, sentencing.

Systems of Procedural Law

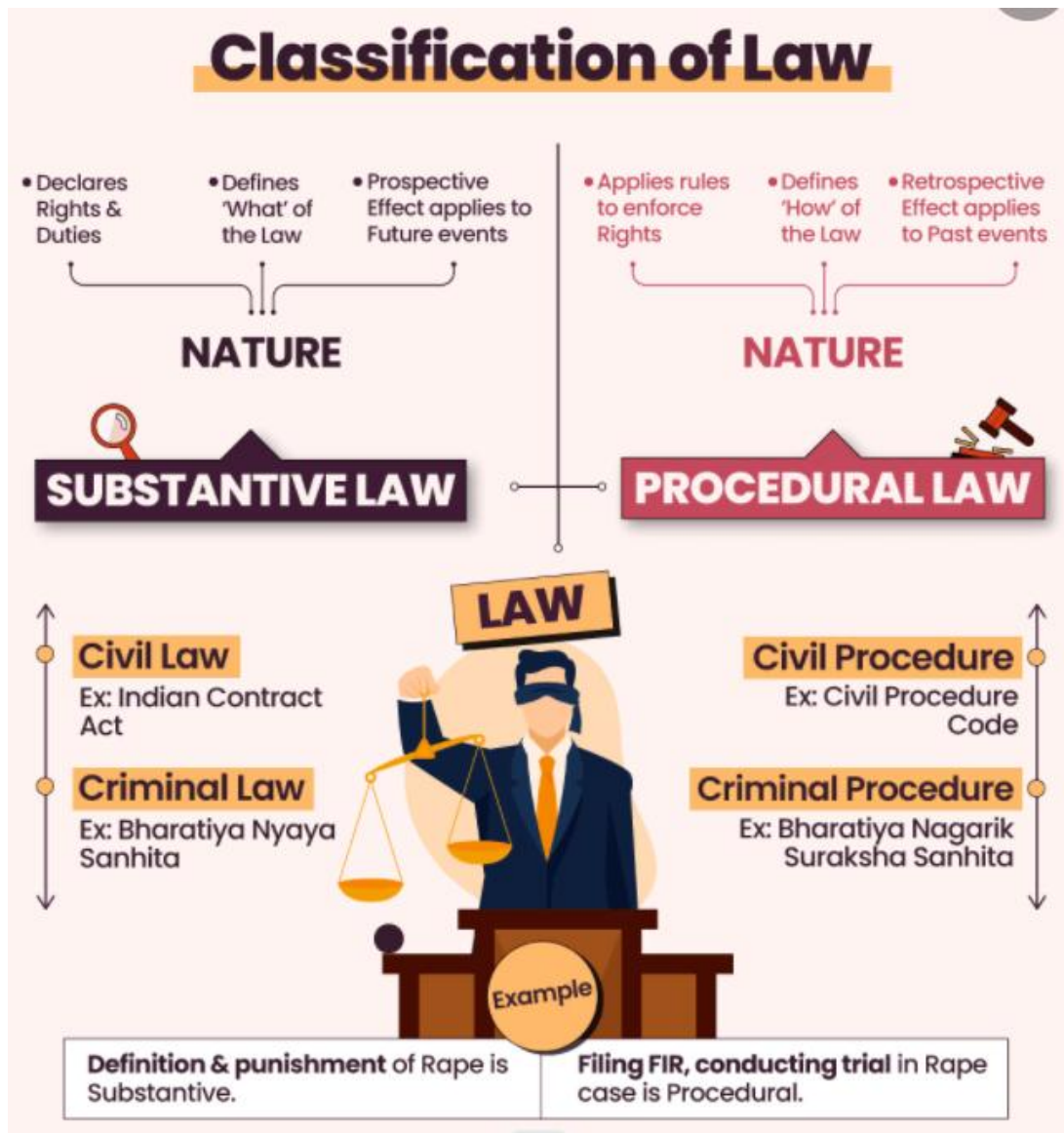
1. **Civil Law Procedures**
 - Originated from **Roman law**; judiciary plays a central role.
 - Ensures consistency in legal rulings but may limit party involvement.
 - Followed in **France, Germany, Italy, Japan, Russia, etc.**
2. **Common Law Procedures**
 - Rooted in **English law**; parties present evidence, judges decide.
 - Ensures party participation but can be costly and inconsistent.
 - Followed in **India, U.S., Canada, and Commonwealth nations**.

Do you know? The Bharatiya Sakshya Adhiniyam (BSA) demonstrates the complex interplay between substantive and procedural law. While substantive law defines rights and duties, and procedural law outlines how to enforce them, the BSA often combines both aspects.

Limitations of Procedural Laws

- Lengthy and costly legal processes.
- Risk of procedural complexity affecting justice.
- Inconsistencies in common law systems.

Substantive Law	Procedural Law ∞
<ul style="list-style-type: none"> • Defines Rights and Duties • Governs Actions and Behaviors • Deals with Legal Principles and Rules 	<ul style="list-style-type: none"> • Regulates the Process of Enforcing Rights and Duties • Prescribes the Methods and Means of Legal Proceedings • Focuses on the Steps and Rules of Legal Actions



- Held that laws affecting **vested rights** are **substantive**, while laws dealing with **trial mechanisms** and **procedures** are **procedural**.
4. **Nani Gopal Mitra vs. State of Bihar (1970)**
- Declared that **procedural amendments** apply **retrospectively**, except in cases where a concluded proceeding under old laws cannot be reopened.

Procedural laws act as the mechanism for implementing substantive laws, ensuring fairness and judicial efficiency in both civil and criminal cases.

Civil Law

Decree, Judgment and Order

Distinction Between Judgement, Decree, Order

The **Civil Procedure Code, 1908 (CPC)** governs civil justice in India, ensuring fair resolution of disputes. It defines the concepts of **judgement, decree, and order**, which are crucial for court proceedings.

1. Judgement

What is a Judgment?

- **Section 2(9) of CPC** lays down the definition of judgment.
- “Judgment” means the statement given by the Judge on the grounds of a decree or order.
- Judgment provides reasons for passing a decree or order.
- Section 33 of the CPC provides that the Court shall after the case has been heard pronounce the judgment and on such judgment decree shall follow.

2. Decree

What is a Decree?

- **Section 2(2) of CPC defines decree.**
- The essential elements of decree are as follows:
 - There must be a formal expression of adjudication
 - There must be judicial determination of the matter in dispute.
 - Also, all the requirements of form must be complied with i.e. it should be formally drawn up in terms of judgment.
 - Such adjudication must have been given in a suit
 - It is necessary that the adjudication must have been given in a suit
 - It must have determined the rights of the parties with regards to all or any of the matters in controversy in the suit
 - The term ‘right’ means substantive rights of the parties and not merely procedural rights.
 - The expression ‘matters in controversy’ refers to subject matter of the suit with reference to which relief is sought.
 - Such determination must be of a conclusive nature

- Determination of rights of the parties **must be conclusive and not interlocutory**.
- An interlocutory order which does not decide the rights of the parties finally is not a decree
- An order refusing adjournment, order refusing or granting interim relief are not decree.
- A decree is **legally binding and enforceable**, subject to appeal.

3. Order

What is Order?

- **Section 2(14) of CPC defines order.**
- “Order” means formal expression of any decision of a Civil Court which is not a decree.
- Therefore, adjudication which is not a decree is order.
- **Types:**
 - **Appealable Orders** – Can be challenged in higher courts (Section 104 & Order 43 Rule 1).
 - **Non-Appealable Orders** – Cannot be appealed unless specified.
 - **Final Orders** – Conclusively determine an issue.
 - **Interlocutory Orders** – Temporary decisions during proceedings.

NOTE : Just to have an idea writ has been given

A writ petition can be either civil or criminal depending on the nature of the case, with criminal writ petitions used to address grievances involving criminal matters and enforce the rights of an accused, while civil writ petitions address matters like revenue, environment, or intellectual property.

4.Writ

- **What is a writ petition?**

A writ petition is a legal document filed before a court, requesting the court to issue a writ (a formal order) to enforce a right or remedy a wrong.
- **Types of Writ Petitions:**
 - **Criminal Writ Petition:** These are filed to address issues related to criminal law, such as enforcing the rights of an accused, quashing an FIR (First Information Report) or criminal proceedings, or seeking bail or release from custody.
 - **Civil Writ Petition:** These are filed in cases related to civil matters, such as revenue (like Income Tax, Customs & Excise, Sales Tax), environmental laws, intellectual property rights, or patent law.
- **Where to file a writ petition:**
 - **High Court:** Under Article 226 of the Indian Constitution, High Courts have the power to issue writs.
 - **Supreme Court:** Under Article 32 of the Indian Constitution, the Supreme Court also has the power to issue writs.
- Types of Writs:

- **Habeas Corpus** – Protects personal liberty against unlawful detention.
- **Mandamus** – Directs a public official to perform a duty.
- **Prohibition** – Prevents a lower court from exceeding its jurisdiction.
- **Certiorari** – Transfers or quashes a lower court's decision.
- **Quo Warranto** – Challenges a person's right to hold a public office.
-
- **Scope:** Used mainly in constitutional law to check executive and judicial overreach.

Key Differences

	Writ	Judgement	Decree	Order
Definition	Court directive for constitutional/legal enforcement	Statement of reasons for a court's decision	Formal adjudication of rights	Decision that is not a decree
Legal Basis	Articles 32 & 226 of the Constitution	Section 2(9) of CPC	Section 2(2) of CPC	Section 2(14) of CPC
Purpose	Protection of rights & judicial control over authorities	Explanation of court's reasoning	Determines rights of parties	Procedural or substantive ruling
Scope	Public law (Constitutional)	Civil cases	Civil cases	Civil cases
Appealability	Not appealable but can be reviewed	Cannot be appealed independently	Can be appealed	Can be appealed if provided under law
Finality	Can be quashed or modified by higher courts	Leads to decree or order	Conclusively determines rights	May or may not be final

Crime and punishment

The new Bharatiya Nyaya Sanhita has 358 Sections against the 511 in the Indian Penal Code that it replaces. The Bharatiya Nagarik Suraksha Sanhita replaces the Code of Criminal Procedure, and the Bharatiya Sakshya Adhinyam comes in place of the Indian Evidence Act



ISTOCKPHOTO

What is new?

- Provision for **Zero FIR** allowing filing of a first information report at any police station, regardless of jurisdiction
- **Online registration** of police complaints and mandatory videography of crime

scenes for all heinous crimes

- A person can now report incidents by **electronic communication**, without the need to visit a police station
- Judgment in criminal cases has to come **within 45 days**

of completion of the trial

- Provisions against false promise of marriage, gang rape of minors and **mob lynching**
- Statement of a woman rape victim will be recorded by a woman police officer

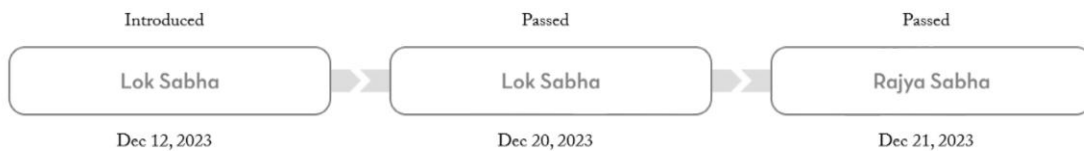
in the presence of her guardian or relative

- Death sentence or life imprisonment for **gang rape of a minor**
- **Sedition** has been replaced with 'secession' or 'act against the country's sovereignty, unity and integrity'

1. Bharatiya Nyaya Sanhita (BNS) - Replacing IPC (1860)

The Bharatiya Nyaya (Second) Sanhita, 2023

Ministry: Home Affairs



New and Revised Offenses:

- Retains major IPC provisions (murder, assault, theft, etc.) while introducing new crimes like organized crime, terrorism, mob lynching, and false sexual promises.
- Includes community service as a punishment for petty offenses.

Terrorism & Organized Crime:

- Defines terrorism as acts that threaten India's integrity or create public terror, punishable by life imprisonment or death.
- Expands the scope of organized crime (kidnapping, cyber fraud, extortion, financial scams) with harsh penalties.

Bharatiya Nyaya Sanhita

Replacing Indian Penal Code

NEW OFFENCES INTRODUCED:

- Snatching
- Organised crime
- Terrorist act
- Petty organised crime
- Hit and run
- Mob lynching

- Hiring child to commit offence
- Publication of false or fake news
- Sexual exploitation of woman by deceitful means
- Abetment outside India
- Acts endangering the sovereignty, integrity and unity of India

Sedition Revisions:

- Replaces 'Rajdroh' (sedition) with 'Deshdroh', penalizing actions that threaten sovereignty and national security.

Sexual Offenses & Women's Safety:

- Retains IPC provisions on rape, stalking, and voyeurism but raises the age of gangrape victims from 16 to 18 years.
- Criminalizes deceptive sexual acts, false promises for sex, and identity fraud for sexual relations.

Punishment for Negligence & Supreme Court Compliance:

- Increases punishment for causing death by negligence from 2 to 5 years, except for doctors (remains 2 years).
- Removes adultery as a criminal offense (per Supreme Court ruling).
- Allows life imprisonment alongside the death penalty for life convicts committing murder.

Criticism of BNS2:

Retains Flaws in Age of Criminal Responsibility:

- Keeps criminal responsibility at 7 years (extendable to 12 based on maturity), conflicting with international standards that recommend a higher threshold.

Inconsistencies in Child-Related Offenses:

- Defines children as below 18 years but sets different age limits for various offenses (e.g., gangrape age threshold is 18, while others remain at 16).

Concerns Over Sedition-like Provisions:

- While sedition is removed, the new provisions penalizing threats to sovereignty may allow similar misuse.

Failure to Reform Rape Laws:

- Retains gender-specific definitions of rape, despite Justice Verma Committee (2013) recommendations for gender neutrality.
- Does not criminalize marital rape.

Bharatiya Nyaya Sanhita
Replacing Indian Penal Code

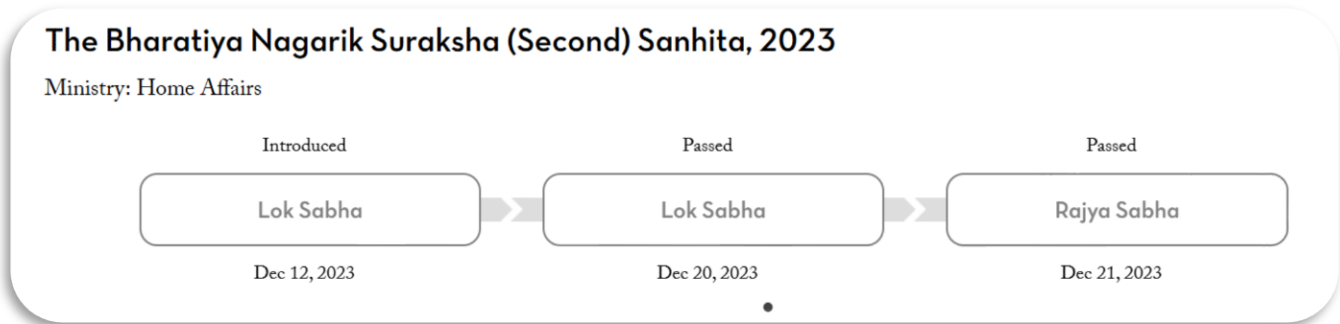
- New chapter on 'inchoate offences' (attempt, abetment, and conspiracy) introduced
- Attempt to commit suicide deleted
- Community service is provided as a punishment for theft of less than Rs 5,000

IE Design

Bharatiya Nyaya Sanhita
Replacing Indian Penal Code

- Definition of child introduced
- Transgender included in definition of 'gender'
- Electronic, digital records included in definition of document
- New chapter on offence against woman and child introduced

2. Bharatiya Nagarik Suraksha Sanhita (BNSS) - Replacing CrPC (1973)



Faster Investigation & Trials:

- Mandatory forensic investigation for offenses punishable by 7+ years.
- Strict timelines:
 - Medical reports for rape victims – within 7 days.
 - Judgments – within 30 days (extendable to 45 days).
 - Charge framing – within 60 days from the first hearing.

Expanded Police Powers:

- Allows any police officer (not just sub-inspectors) to order medical examinations.
- Wider powers for evidence collection (fingerprints, voice samples, handwriting).

Bharatiya Nagarik Suraksha Sanhita
Replacing Code of Criminal Procedure

- Witness protection scheme introduced
- Definition of 'victim' expanded, police officer to inform victim/informant about progress in probe
- Provision for not more than 2 adjournments introduced
- Audio video electronic means used to enhance transparency, accountability and speedy justice introduced

Stricter Bail Conditions:

- Denies bail for accused facing multiple charges or serious offenses like terrorism and organized crime.

Forensic & Digital Evidence Improvements:

- Requires forensic experts to visit crime scenes and electronically record evidence collection.

Bharatiya Nagarik Suraksha Sanhita
Replacing Code of Criminal Procedure

- In-absentia trial introduced
- Timeline prescribed in many procedures and processes
- Arrest over offences with punishment of less than 3 years with prior nod of senior police officers introduced
- Scope of declaring proclaimed offender increased – From 19 offences, which did not include rape cases, all offences with punishment for 10 yrs or more included

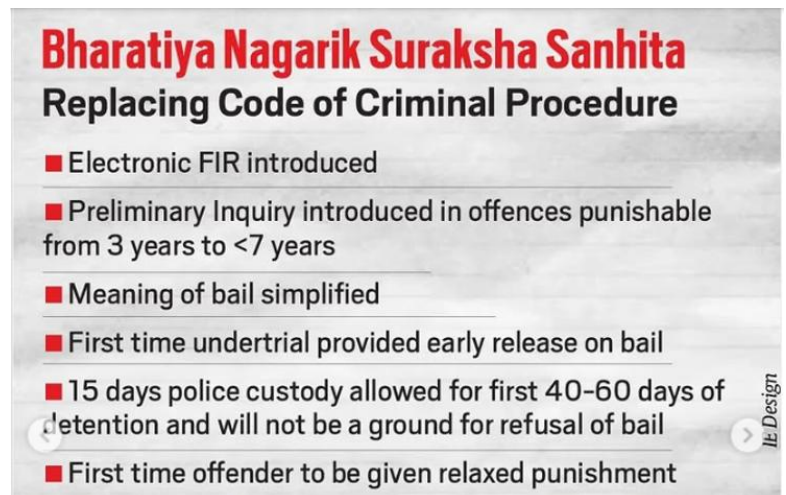
Property Seizure & Detention Rules:

- Allows authorities to attach properties from proceeds of crime.
- Restricts release of undertrials on personal bonds for serious crimes.

Criticism of BNSS:

Lack of Safeguards in Property Seizure:

- Unlike the Prevention of Money Laundering Act (PMLA), BNSS2 does not have strong safeguards against misuse of property seizure powers.



Bail Restrictions Can Lead to Overcrowded Jails:

- Denying bail for multiple charges could affect undertrials, leading to longer detentions without conviction.

Contradicts Supreme Court Orders on Handcuffing:

- Allows handcuffing for accused in organized crime, terrorism, and severe offenses, violating Supreme Court rulings that prohibit handcuff use without judicial approval.

Confusion Over Public Order & Criminal Trials:

- Retains CrPC provisions for public order maintenance under the same legal framework as trial procedures, raising concerns about separation of policing and judicial processes.

3. Bharatiya Sakshya Bill (BSB) - Replacing Indian Evidence Act (1872)



Key Features:

Recognition of Digital & Electronic Evidence:

- Expands the definition of documents to include emails, server logs, smartphones, laptops, voicemails, and electronic records.
- Treats electronic records on par with paper evidence.

Easier Oral & Electronic Testimony:

- Witnesses, accused, and victims can testify electronically (video conferencing, digital recordings).

Simplified Joint Trial Rules:

- Allows joint trials even if one accused is absconding, preventing delays in legal proceedings.

Criticism of BSB:

Concerns Over Tampering of Electronic Evidence:

- No safeguards to prevent manipulation or tampering of digital evidence during investigation.

Failure to Implement Law Commission Recommendations:

- Does not include recommendations like presuming police responsibility for custodial injuries.

Bharatiya Sakshya Adhiniyam Replacing Indian Evidence Act

- Electronic record included in definition of 'document'
- Statements received electronically included in definition of 'evidence'
- Added more standards for considering electronic, digital records as primary evidence laying emphasis on its proper custody, storage, transmission, and broadcast

Bharatiya Sakshya Adhiniyam Replacing Indian Evidence Act

- Established legal admissibility, validity and enforceability of electronic or digital record as evidence
- Established legal admissibility, validity and enforceability of electronic or digital record as evidence
- Inclusion of husband/wife as competent witness in criminal proceedings against spouse
- Conviction based on corroborated testimony of accomplice made legal
- Comprehensive certificate for submitting electronic evidence added in schedule

Custodial Confessions Still Admissible:

- Allows information given in custody to be used as evidence but not statements made outside custody, leading to potential misuse by police.

Conclusion

- ✚ The BNS, BNSS, and BSB modernize India's criminal laws by addressing organized crime, digital evidence, and forensic investigation. However, concerns remain regarding:
 - ⚠ Potential misuse of sedition-like provisions.
 - ⚠ Gender bias in sexual offense laws (exclusion of marital rape, no gender neutrality in rape cases).
 - ⚠ Overexpansion of police powers (bail restrictions, handcuffing rules, property seizure with no safeguards).
 - ⚠ Lack of protections against digital evidence tampering.

While the reforms introduce strict timelines, forensic advancements, and better evidence handling, implementation and oversight will determine their success.



Nirbhaya Act & Disha Act

1. Nirbhaya Act (Criminal Law Amendment Act, 2013)

Enacted after the 2012 Delhi gangrape case (Nirbhaya case) to strengthen laws on sexual offenses. Amended the Indian Penal Code (IPC), Code of Criminal Procedure (CrPC), and Indian Evidence Act.

Expanded Definition of Rape (Section 375 IPC):

- Includes non-penetrative acts, insertion of objects, and oral sex.
- Increases minimum punishment to 7 years, extending to life imprisonment or death in extreme cases.

Stronger Punishments for Sexual Offenses:

- Voyeurism (Section 354C IPC): Watching or recording women's private acts → Imprisonment (1-3 years).
- Stalking (Section 354D IPC): Physical or online stalking → Up to 3 years for first offense, 5 years for repeat offense.
- Sexual Harassment (Section 354A IPC): Unwelcome sexual advances → Up to 3 years imprisonment.

Death Penalty for Repeat Offenders:

- Introduced the death penalty for repeat rapists (Section 376E IPC).

Fast-Track Courts & Speedy Investigation:

- Mandatory completion of rape investigations within 2 months.
- Setting up of fast-track courts for speedy trials.

Changes in Evidence Collection:

- Bans the two-finger test for rape victims.
- Allows victim statements to be recorded at home or in front of a woman police officer.

New Protections for Acid Attack Victims:

- Section 326A IPC: Acid attack → Minimum 10 years, extendable to life imprisonment.
- Section 326B IPC: Attempt to throw acid → 5-7 years imprisonment.

CRIMINAL LAW (AMENDMENT) ACT, 2013

The law promoted as the weapon that will dissuade potential rapists –and which proposes death for the more barbaric of them– was passed by the Lok Sabha on March 19 and by the Rajya Sabha on March 21

■ It amended various sections of the Indian Penal Code, the Code of Criminal Procedure, the Indian Evidence Act and the Protection of Children from Sexual Offences Act

■ Under the law, rapists stand to get

sentenced to rigorous imprisonment for a term not less than 20 years– and possibly extending for life – with a fine.

■ It proposes death sentence for offenders with a prior conviction for a similar crime

■ It defines stalking and voyeurism as non-bailable offences if committed a second time

■ Perpetrators of acids attack face 10 years in jail.

Disha Act, 2019 (Andhra Pradesh)

Introduced by Andhra Pradesh after the 2019 Hyderabad veterinarian rape and murder case. Aims for swift justice in cases of rape and sexual offenses against women and children.

Faster Investigations & Trials:

- Investigation must be completed within 7 days.
- Trial to be completed within 14 days (compared to 2 months under the Nirbhaya Act).

Death Penalty for Heinous Crimes:

- Death penalty for rape if there is strong evidence.

Zero Tolerance for Acid Attacks & Harassment:

- Severe punishment for acid attacks, cyber harassment, and sexual violence.
- Online harassment, social media stalking, and sending obscene messages are punishable.

Tackling crime

The key aspects of the A.P. Criminal Law (Amendment) Bill, 2019, which will be tabled in the ongoing winter session of the State Legislature

■ **Death penalty** for heinous offences of **rape** and **gang-rape**

■ Probe and trial will be completed in **7** and **14 working days** respectively

■ Judgment time reduced to **21 days** from the existing **4 months**

It will be known as A.P. Disha Act, 2019



Special Courts & Rapid Justice:

- Establishment of exclusive fast-track courts in every district for sexual offenses.

Increased Surveillance & Emergency Response:

- Disha App: A one-touch emergency alert app for women's safety.
- Automatic number plate recognition (ANPR) cameras for tracking suspects.

Forensic Strengthening:

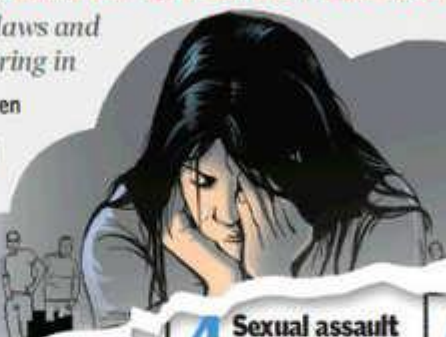
- Mandatory use of forensic evidence in sexual assault cases.

Stronger Cybercrime Laws:

- Harsh punishments for cyberstalking, deepfake misuse, and revenge porn.

NEW LAW, A GAME CHANGER?

MN Samdani writes about present laws and what differences will the new law bring in



1 Death penalty for rape

- > Under present laws, offender gets a fixed jail term up to life or death sentence for extreme cases of rape

AP Disha Act, 2019

- > AP government has prescribed death for rape crimes if adequate evidence is there. No other options provided

> Provision given by amending Section 376 of Indian Penal Code, 1860

2 Reducing judgement period to 21 days

- > As per Nirbhaya Act, 2013 and Criminal Amendment Act, 2018 it is 4 months

AP Disha Act, 2019

- > Judgment period reduced to 21 working days
- > Probe shall be over in 7 working days, trial completed in 14 working days

3 Sexual offences against children

- > In cases of molestation/sexual assault on kids under POCSO Act, 2012, punishment ranges from 3 to 7 years of jail

AP Disha Act, 2019

- > The new law prescribes life imprisonment for other sexual offences against children
- > New Section 354F and Section 354G 'Sexual Assault on Children' is being inserted in Indian Penal Code, 1860

4 Sexual assault on children

- > In existing laws, the period for completing the trial in sexual abuse cases on children is 12 months

AP Disha Act, 2019

- > In case of sexual assault on kids, judgment period has been cut to 21 working days
- > Investigation shall be completed in 7 working days and trial shall be completed in 14 working days

5 Social media abuse against women

- > No such provision in IPC

AP Disha Act, 2019

- > In cases of harassment through mail, social media, digital mode or any other form, the guilty shall get jail
- > The jail term: two years on first conviction, four years on subsequent conviction

6 Special courts in every district

- > A few states have special courts but not in every district. These are designated courts, not exclusive in nature

AP Disha Act, 2019

- > These courts will deal with offences against women, children including rape, acid attacks, stalking, voyeurism, social media harassment, sexual harassment and all cases under POCSO Act
- > Introducing 'Andhra Pradesh Special Courts for Specified Offences Against Women & children Act, 2019' for this

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Comparison: Nirbhaya Act vs. Disha Act

Feature	Nirbhaya Act (2013)	Disha Act (2019)
Investigation Time	2 months	7 days
Trial Duration	No fixed deadline	14 days
Punishment for Rape	Life imprisonment or death for repeat offenders	Death penalty in serious cases
Cyber Crimes	Some provisions	Specific penalties for cyberstalking, deepfake misuse
Fast-Track Courts	Recommended but not mandatory	Mandatory in every district
Forensic Evidence	Encouraged	Mandatory
Emergency Response	None	Disha App for instant alerts

Criticism & Challenges:

Nirbhaya Act:

- Long trial durations despite the fast-track mandate.
- Death penalty provision criticized for discouraging victims from reporting crimes.
- No gender neutrality in rape laws (only protects women).

Disha Act:

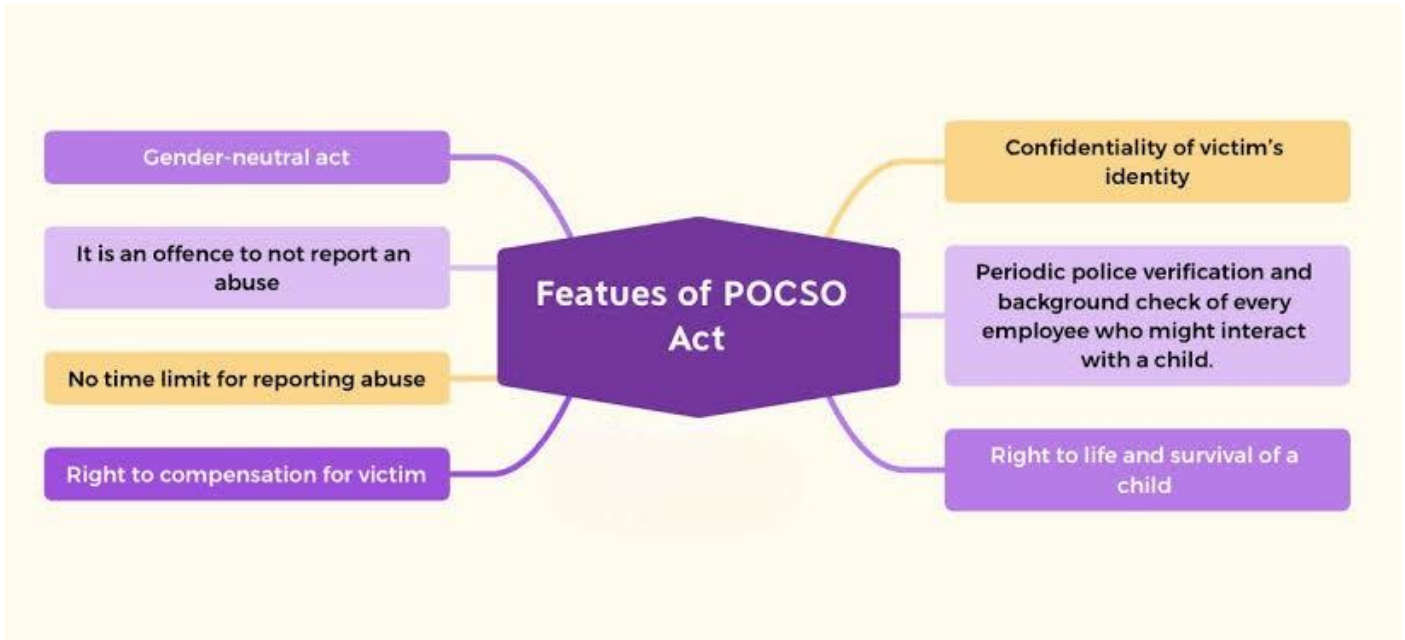
- 7-day investigation limit criticized as unrealistic.
- Fear of misuse of the death penalty (potential for false accusations).
- Privacy concerns over surveillance systems.

-
- Nirbhaya Act brought sweeping legal reforms at the national level.
 - Disha Act went further in ensuring ultra-fast justice and digital surveillance.
 - Challenges remain in implementation, victim support, and balancing justice with due process.

Both laws highlight the evolving approach to women’s safety in India.

The Protection of Children from Sexual Offences (POCSO) Act, 2012

- ◆ Enacted to protect children (below 18 years) from sexual abuse, exploitation, and pornography.
- ◆ Gender-neutral – applies to all children, irrespective of gender.
- ◆ Covers sexual assault, harassment, and child pornography, ensuring strict punishment.



Key Provisions of POCSO Act, 2012

Definition of Child:

- A child is anyone below 18 years of age.

Types of Sexual Offences Defined:

- Penetrative Sexual Assault (Section 3): Insertion of any object or body part → 7 years to life imprisonment + fine.
- Aggravated Penetrative Sexual Assault (Section 5): Committed by a relative, police, teacher, doctor, or in custody → 10 years to life imprisonment + fine.
- Sexual Assault (Section 7): Touching private parts or forcing a child to do so → 3 to 5 years + fine.
- Aggravated Sexual Assault (Section 9): Assault by a trusted person or public official → 5 to 7 years + fine.
- Sexual Harassment (Section 11): Showing pornography, making sexual remarks → Up to 3 years + fine.
- Child Pornography (Section 13-15): Possession, creation, or distribution of child sexual content → 5 to 7 years + fine.

Burden of Proof on Accused (Section 29 & 30):

- The accused must prove innocence, unlike general criminal law where the prosecution must prove guilt.

Mandatory Reporting (Section 19):

- Any person aware of child abuse must report it to the police; failure to do so is punishable.

Child-Friendly Legal Process:

- Special Courts to handle POCSO cases.
- Child's identity must remain confidential.
- No aggressive questioning; child-friendly police and courtroom procedures.
- Statements can be recorded at home in front of a female police officer.

Time-Bound Investigation & Trial:

- Police must complete investigations within 2 months.
- Trial must conclude within 1 year.

Punishment for False Complaints (Section 22):

- Protects against misuse; however, good faith complaints are not punished.

Key Amendments in POCSO Act, 2019

Stronger Punishments for Heinous Crimes:

- Death penalty for aggravated penetrative sexual assault (previously, the maximum was life imprisonment).
- Minimum punishment increased to 20 years for aggravated cases.

Stricter Child Pornography Laws:

- New provisions for storage, possession, and distribution.
- Fine + 5-7 years imprisonment for first-time offenders.

Clarification on Child-Friendly Procedures:

- Detailed guidelines on how to record a child's statement to avoid trauma.

Faster Investigation and Trial Timelines:

- Investigation within 2 months; trial within 1 year (to ensure speedy justice).

Criticism & Challenges

Death Penalty Concerns:

- Might discourage reporting of crimes, especially in cases where the perpetrator is a family member.
- No clear evidence that the death penalty deters child abuse.

Age of Consent & Teenage Relationships:

- Strict implementation criminalizes consensual teenage relationships, treating them as statutory rape.
- Courts have raised concerns about misuse of POCSO against consensual relationships.

Underreporting Due to Family Pressure:

- 85% of child sexual abuse cases involve known persons; families often avoid reporting to protect family reputation.

Delay in Justice & Implementation Issues:

- Overburdened courts lead to delayed trials, despite strict time limits.
- Lack of awareness among police and judiciary regarding child-sensitive procedures.

Conclusion

- POCSO Act is one of India's strongest child protection laws, ensuring stringent action against child sexual abuse.
- The 2019 amendments introduced tougher punishments, especially against child pornography and aggravated assault.
- However, implementation challenges, misuse concerns, and delays in trials need urgent reforms.

Way Forward: Focus on awareness, fast-track courts, and safeguarding teenage consensual relationships from misuse of the law.

