



TATHASTU
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DAILY CURRENT AFFAIRS

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NEW CRIMINAL LAWS IN FORCE; CR.PCC IPC APPLICABLE ONLY FOR OLD CASES

New criminal laws in force; Cr.PC, IPC applicable only for old cases

Till BNS gets new section on sexual crimes against men and transgender persons, police can invoke allied charges such as wrongful confinement and physical hurt, if they get such complaints; Central officials say States free to amend BNS

Vijaita Singh
NEW DELHI

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

As three new criminal laws come into effect across the country from Monday despite objections from States ruled by non-BJP parties, Union government officials said here on Sunday that the States were free to bring in their own amendments to some provisions of the Bharatiya Nagrik Suraksha Sanhita (BNS) that replaces the Code of Criminal Procedure (Cr.PC). The BNS prescribes the procedure and conditions for arrest, bail, and custody, among other things.

The Bharatiya Nyaya Sanhita (BNS), which replaces the Indian Penal Code, 1860, may also be amended soon to incorporate a section on sexual



crimes against men and transgender persons. A senior government official said that police officers were being asked to invoke other allied sections under the BNS, such as wrongful confinement and physical hurt, if they get such complaints, until an amend-

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'

ment is brought to correct this anomaly. The Bharatiya Sakshya (BS), which replaces the Indian Evidence Act, 1872, is the third law which will come into force. From 00:00 hours on July 1, more than 650 district courts and 16,000 police

stations across the country will have no option but to migrate to the new system. Cognisable offences will be registered under Section 173 of the BNS, instead of Section 154 of the Cr.PC. The IPC and Cr.PC will run concurrently along

with the new laws as several cases are still pending in courts and some crimes that took place before July 1 that are reported later will have to be registered under the IPC.

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Context:

- ❖ The three new criminal laws, that were passed by Parliament in 2023, will come into effect from July 1, 2024.
- ❖ The Bharatiya Nyaya Sanhita (BNS), the Bharatiya Nagarik Suraksha Sanhita (BNS), and the Bharatiya Sakshya Adhinyam (BSA) that will replace the colonial-era Indian Penal Code, 1860 (IPC), the Code of Criminal Procedure, 1973 (CrPC), and the Indian Evidence Act, 1872 (IEA), respectively, received President Droupadi Murmu's assent on December 25, 2023.



- ❖ From July 1, cognisable offences will be registered under Section 173 of the BNSS, instead of Section 154 of the CrPC. However, the IPC and CrPC will run concurrently along with the new laws as several cases are still pending in courts and some crimes that took place before July 1 but are reported later will have to be registered under the IPC.
- ❖ The Bharatiya Nyaya Sanhita (BNS), which replaces the Indian Penal Code, 1860, may also be amended soon by the Union government to incorporate a missing section on sexual crimes against men and transgender persons.
- ❖ Even leaving aside the government's 'decolonisation' narrative, there has been an overwhelming consensus that India's criminal laws needed updating. At the same time, the consultation process during the pandemic for drafting the laws, and their hasty passage through Parliament, has caused much disquiet. Some legal experts opine that although the new laws make significant changes, they do not 'overhaul' the existing laws.

The BNS introduces a handful of new crimes:

- ❖ Notable among them is Clause 69, which penalises sexual intercourse through the employment of "deceitful means".
- ❖ **The provision reads:** "Whoever, by deceitful means or by making promise to marry to a woman without any intention of fulfilling the same, has sexual intercourse with her... shall be punished with imprisonment" of upto 10 years, and also be liable for a fine.
- ❖ "Deceitful means" includes the false promise of employment or promotion, inducement, or marrying after suppressing identity.
- ❖ Critics say that this might, in some cases, end up criminalising consensual relationships and provide a fillip to the "love jihad" narrative.
- ❖ The BNS, under Clause 103, for the first time also recognises murder on the ground of race, caste, or community as a separate offence. The SC had, in 2018, directed the Centre to consider a separate law for lynching. The new provision could now ensure such crimes, which have been on the rise in recent years, get legal recognition.
- ❖ Another big-ticket addition to the BNS is the inclusion of offences such as organised crime and terror, previously in the ambit of specific stringent laws like Unlawful Activities Prevention Act for terrorism, and state-specific laws such as the Maharashtra Control of Organised Crime Act for organised crime. On terrorism, the BNS borrows heavily from the UAPA.
- ❖ Organised crime, in Clause 111(1), encompasses "any continuing unlawful activity including kidnapping, robbery, vehicle theft, extortion, land grabbing, contract killing, economic offences, cyber-crimes having severe consequences, trafficking in people, drugs, illicit goods or services and weapons, human trafficking racket for prostitution or ransom..." But vague descriptions such as "cyber-crimes having severe consequences"
- ❖ Snatching, defined in Clause 304(1), is also a 'new' crime, distinct from theft. The definition reads: "in order to commit theft, the offender suddenly or quickly or forcibly seizes or secures or grabs or takes away from any person or from his possession any moveable property". Both theft and snatching prescribe a punishment of upto three-years in jail.



New timelines, processes:

- ❖ A big change in the BNSS is the expansion of detention in police custody from the 15-day limit in the CrPC to up to 90 days.
- ❖ According to Section 167(2) of the CrPC, an accused had to be sent to judicial custody (prison) after a maximum of 15 days in police custody. This was intended to incentivise the police to complete investigations in a time-bound manner, and curtail the likelihood of custodial torture and forced confessions.
- ❖ Clause 187(3) of the BNSS has deleted the words “otherwise than in police custody,” essentially, allowing the police to keep custody of an accused for upto 90 days for all offences listed in the BNS.

Hierarchy of Courts:

- ❖ Magistrate's Courts
- ❖ Sessions Courts
- ❖ High Courts
- ❖ Supreme Court

Bharatiya Sakshya Adhiniyam (BSA)

- ❖ **Key Changes:**
 - **Electronic Evidence:** Streamlined rules and expanded scope of secondary evidence.
 - **Detailed Disclosure Formats:** New schedule prescribing detailed disclosure format for electronic records.

MENINGOENCEPHALITIS

Meningoencephalitis claims two lives in Kerala: officials

A.S. Jayanth
KOZHIKODE

Unhygienic and stagnant water resources and high temperatures could be the factors contributing to the recent unusual rise in the rare, but fatal primary amoebic meningoencephalitis cases in the State.

Three cases of the infection, including two deaths, have been reported in the last two months alone. While a five-year-old girl from Malappuram district died in May, a 13-year-old girl from Kannur district lost her life in June. Another 12-year-old boy from Kozhikode district is right now undergoing medical treatment at a private hospital. First detected in Alappuzha municipality in 2016, the infection was reported in Ma-

Unhygienic and stagnant water resources and high temperatures may be worsening situation

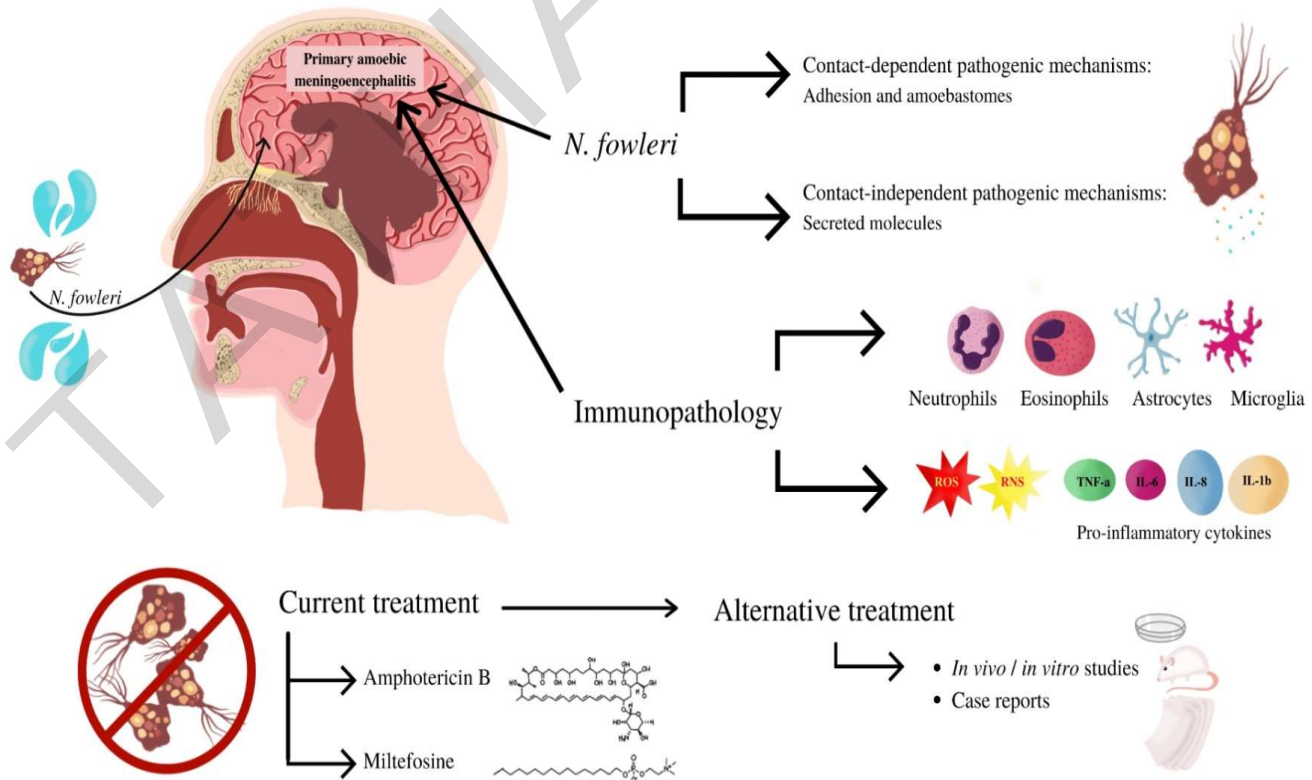
lappuram in 2019 and 2020, Kozhikode in 2020, Thrissur in 2022, and in Alappuzha in 2023. "There has been a rise in such cases the world over. Warming of the atmosphere and stagnant and unhygienic water resources could be some of the conditions leading to it. This type of amoeba is found to be more active in warm water," M.P. Jayakrishnan, Additional Professor, Paediatrics, Government Medical College Hospital, Kozhikode, told *The Hindu* on Sunday.

Dr. Jayakrishnan was

among those who treated the five-year-old girl from Malappuram and also suspected the possibility of the infection. "Earlier, we used to have cases of bacterial meningitis. But, its instances have come down of late due to vaccination. The five-year-old girl had symptoms similar to that of bacterial meningitis. That was when we thought if it could be amoebic meningoencephalitis," he pointed out.

This infection is caused by *Naegleria fowleri*, also called 'brain-eating amoeba', which lives in fresh warm water, such as lakes and rivers.

The amoeba infects people when it enters their body through the nose. It travels up to the brain and destroys the tissues and results in its swelling.



CARBON DERIVED FROM COCONUT HUSKS CAN POWER SUPERCAPACITORS

Carbon derived from coconut husks can power supercapacitors, find researchers

Sarath Babu George

THIRUVANANTHAPURAM

Researchers at the Government College for Women, Thiruvananthapuram, have devised a method to produce activated carbon, suitable for supercapacitor fabrication, from coconut husks, which are a major agricultural residue in Kerala.

The coconut husk bio-waste-derived activated carbon holds immense promise for sustainable and efficient green solutions for high-performance supercapacitors owing to its availability, low cost, and eco-friendly nature.

Supercapacitors, with



Schematic illustration of the synthesis of activated carbon.

significantly higher capacitance and energy storage capacity than conventional capacitors, have emerged as a vital component in the

quest for sustainable energy storage solutions. But, the search for an ideal supercapacitor electrode material has been a challenge.

The research team, led by Xavier T.S., Assistant Professor, Department of Physics, and including Merin Tomy, Ganesh S.G., Anu M.A., and Sreelakshmi S.R., found the prototype supercapacitors made of coconut husk-derived activated carbon to be four-times more efficient than the existing supercapacitors. The findings have been published in the *American Sustainable Resource Management Journal*.

The team had leveraged the innovative microwave-assisted method designed at the Centralised Common Instrumentation Facility (CCIF) at the college.

What are supercapacitors?

- ❖ A supercapacitor is a next-generation energy storage device which is also known as an ultracapacitor.
- ❖ It has advantages such as high-power density, long durability, and ultrafast charging characteristics as compared to conventional capacitors and LithiumIon batteries (LIB).
- ❖ The main components of supercapacitors include an electrode, electrolyte, separator, and current collector.
- ❖ The fabrication cost of electrode materials, as well as electrolytes, should be reduced because these two components account for a major portion of the device manufacturing cost.
- ❖ An electrode is a solid electric conductor that carries electric current into non-metallic solids, liquids, gases, plasmas, or vacuums.
- ❖ An electrolyte is a substance that produces an electrically conducting solution when dissolved in a polar solvent, such as water.



SHOULD EDUCATION BE BROUGHT BACK TO THE STATE LIST?

Should education be brought back to the State list?

When was the subject added to the concurrent list? How do other countries govern education?

Rangarajan, R

The story so far:

The NEET-UG exam has been embroiled in controversies over the award of grace marks, allegation of paper leaks and other irregularities. The government also cancelled the UGC-NET exam after it was held, while the CSIR-NET and NEET-PG exams have been postponed.

What is the historical background?

The Government of India Act, 1935 during the British rule created a federal structure for the first time in our polity. The legislative subjects were distributed between the federal legislature (present day Union) and provinces (present day States). Education which is an important public good was kept under the provincial list. After independence, this continued and education was part of the 'State list' under the distribution of powers.

However, during the Emergency, the Congress party constituted the Swaran

Singh Committee to provide recommendations for amendments to the Constitution. One of the recommendations of this committee was to place 'education' in the concurrent list in order to evolve all-India policies on the subject. This was implemented through the 42nd constitutional amendment (1976) by shifting 'education' from the State list to the concurrent list. There was no detailed rationale that was provided for this switch and the amendment was ratified by various States without adequate debate.

The Janata Party government led by Morarji Desai that came to power after Emergency passed the 44th constitutional amendment (1978) to reverse many of the controversial changes made through the 42nd amendment. One of these amendments that was passed in the Lok Sabha but not in the Rajya Sabha was to bring back 'education' to the State list.

What are international practices?

In the US, State and local governments

set the overall educational standards, mandate standardised tests and supervise colleges and universities. The federal education department's functions primarily include policies for financial aid, focussing on key educational issues and ensuring equal access. In Canada, education is completely managed by the provinces. In Germany, the constitution vests legislative powers for education with landers (equivalent of States). In South Africa, on the other hand, education is governed by two national departments for school and higher education. The provinces of the country have their own education departments for implementing policies of the national departments and dealing with local issues.

What can be the way forward?

The arguments in favour of 'education' in the concurrent list include a uniform education policy, improvement in standards and synergy between Centre and States. However, considering the vast diversity of the country, a 'one size fits all'

approach is neither feasible nor desirable. Further, as per the report on 'Analysis of Budgeted expenditure on Education' prepared by the Ministry of Education in 2022, out of the total revenue expenditure by education departments in our country estimated at ₹6.25 lakh crore (2020-21), 15% is spent by the Centre while 85% is spent by the States. Even if expenditure by all other departments on education and training are considered, the share works out to 24% and 76% respectively.

The arguments against restoring 'education' to State list include corruption coupled with lack of professionalism. The recent issues surrounding the NEET and NTA have however displayed that centralisation does not necessarily mean that these issues would vanish.

Considering the need for autonomy in view of the lion's share of the expenditure being borne by the States, there needs to be a productive discussion towards moving 'education' back to the State list. This would enable them to frame tailor-made policies for syllabus, testing and admissions for higher education including professional courses like medicine and engineering. Regulatory mechanisms for higher education can continue to be governed by central institutions like the National Medical Commission, University Grants Commission and All India Council for Technical Education.

Rangarajan, R is a former IAS officer and author of 'Polity Simplified'. Views expressed are personal.

THE GIST

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▼ Considering the need for autonomy in view of the lion's share of the expenditure being borne by the States, there needs to be a discussion towards moving 'education' back to the State list.

Question (Homework)

Q.1 Should education be brought back to the State list? Examine. (150 words/10 marks)