



THE BHARATIYA SAKSHYA ADHINIYAM 2023

Middle Stage
Classes VI to VIII



September 2024
Bhadrapada 1946

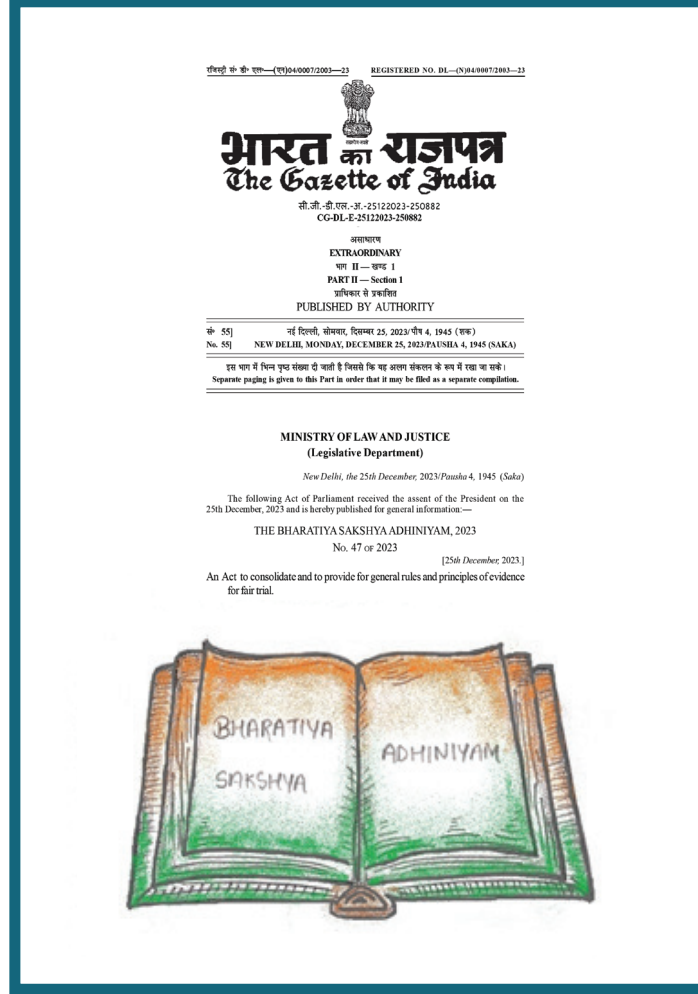
PD 5H BS

© *National Council of Educational Research and Training, 2024*

₹ **85.00**

Published at the Publication Division, by the Secretary, National Council of Educational Research and Training, Sri Aurobindo Marg, New Delhi 110 016 and printed at Pushpak Press Private Limited, B-3/1, Okhla Industrial Area, Phase-II, New Delhi - 110 020

THE BHARATIYA SAKSHYA ADHINIYAM, 2023



Middle Stage Classes VI to VIII

विद्यया ऽ मृतमश्नुते



एन सी ई आर टी
NCERT

राष्ट्रीय शैक्षिक अनुसंधान और प्रशिक्षण परिषद्
NATIONAL COUNCIL OF EDUCATIONAL RESEARCH AND TRAINING



Bharatiya Sakshya Adhiniyam, 2023



Learning outcomes



After going through this module, you will be able to:

- understand the general laws regarding evidence and its admissibility in the Indian Courts
- identify and differentiate between various types of evidence
- know how to use some provisions of the Bharatiya Sakshya Adhiniyam for protecting yourself in real-life scenarios
- develop understanding of laws and become informed citizens with a mind to creatively and critically analyse the laws
- enhance the legal reasoning skills

Introduction



All of you have surely read the Preamble to the Indian Constitution, which is included in your textbooks and discusses 'justice' as an essential component. The Constitution ensures the administration of justice through the court, ensuring that the people of our nation receive it. The judiciary upholds several acts and legislation, and considers all available evidences before rendering a decision.

The employment of technological innovation and science in every aspect of our life has significantly transformed the world in which we live. It was necessary to create a framework that could accept new types of evidence because the Indian Evidence Act, 1872 (hereinafter IEA) did not sufficiently handle the increase of digital and electronic evidence. Most of the provisions in the IEA were adopted during the British period and are therefore out of time. Due to societal shifts and the evolution of the judicial system, a more modern and flexible approach to evidence was required. These conditions



led to the enactment of the Bharatiya Sakshya Adhiniyam 2023 (hereinafter BSA, 2023).

The broader objective of the Bharatiya Sakshya Adhiniyam, 2023 is to improve and modernise India's evidentiary framework by filling in the gaps left by the previous act and adjusting to the evolving requirements of modern legal practice. Studying the Indian Evidence Act gives you legal information and gets you ready for real-world use in a variety of legal situations.

There may be terms and structures in the IEA, 1872 that are difficult to understand now. Clarifying definitions and improving the law's accessibility are the goals of the new legislation. Modernisation attempts to streamline and shorten legal procedures, cutting down on time and improving the effectiveness of the legal system.

	<p>Bharatiya Sakshya Adhiniyam (2023)</p> <p>Sakshya (in Hindi): प्रमाण (in English): Evidence</p> <p>Adhiniyam (in Hindi): विधान के अंतर्गत बनाया गया नियम (in English): Act</p> <p>An Act is a bill that has been passed by Lok Sabha and Rajya Sabha and assented by the President of India.</p>
--	--

Source: https://www.mha.gov.in/sites/default/files/250882_english_01042024.pdf

Let us understand the concept of Criminal laws through the table given below.

Old Laws till 30 June 2024	New Laws w.e.f. 1 July 2024	Basic Objectives of the Act
Indian Penal Code (IPC), 1860	Bharatiya Nyaya Sanhita (2023)	The objective of this Act is to provide a general Penal Code for India. It tells us the nature of action that can be termed as 'Crime'.



Code of Criminal Procedure (CrPC), 1973	Bharatiya Nagarik Suraksha Sanhita (2023)	This is a procedural law. The main objective of the CrPC is to ensure a fair and just investigation and trial of criminal cases, while also protecting the rights of the accused and victims.
Indian Evidence Act (IEA), 1872	Bharatiya Sakshya Adhiniyam (2023)	Its primary objective is to ensure fairness, clarity and efficiency in the administration of justice.



Source: The Indian Express, Monday, 1st July 2024

Date of implementation: 1st July 2024
Replaced: Indian Evidence Act (1872)
 IEA was introduced by Sir James Fitzjames Stephen, who was a Judge at the Calcutta High Court. This Act brought uniformity for ensuring justice in the Indian courts.

Reason for implementation: This was enacted during the British regime. Hence, this act had to be modernised by including electronic and digital records as well.

Activity

- Find the name of the previous laws that have been replaced by the Bharatiya Nyaya Sanhita 2023, Bharatiya Nagarik Suraksha Sanhita 2023 and Bharatiya Sakshya Adhiniyam 2023.
- Prepare a chart noting the key changes introduced in the Bharatiya Sakshya Adhiniyam 2023.





Source: Delhi Police display awareness poster for new criminal laws on 1st July 2024 | Photo Credit: PTI

Before we explain the Bharatiya Sakshya Adhinyam 2023, you should understand some of the important definitions that will be frequently used. They are mentioned in the box given below.

Some Important Terms

- **Document:** A written or printed paper, letter, figure or mark including electronic and digital records that provides information or proof of something.
- **Evidence:** Collection of facts or information to check whether it is true or false.
- **Primary evidence:** Original documents or materials that are produced before the court for inspection.
- **Secondary evidence:** It refers to copies or substitutes of the original documents or materials that are acceptable in court under specific circumstances.
- **Court:** It includes all Judges and Magistrates, and all persons, except arbitrators, legally authorised to take evidence.
- **Facts in issue:** It means and includes any fact from which, either by itself or in connection with other facts, the existence, non-existence, nature or extent of any right, liability or disability, asserted or denied in any suit or proceeding, necessarily follows.
- **Bullying:** Bullying can be defined as an act of aggressive physical or social behaviour, intentionally and repeatedly meted out by an individual or a group towards another person(s) which causes harm or discomfort.
- **Cyberbullying:** Bullying that takes place through digital devices like cell phones, computers and tablets through social media, texting, SMS, apps, gaming and teaching platforms.
- **Cybercrime:** Cybercrime is a crime committed through a digital device.
- **Electronic/Digital Records:** Electronic records on emails, server logs, documents on computers, laptops or smart phones, websites, locational evidence and voice mail messages stored on digital devices.



Significance of Bharatiya Sakshya Adhiniyam (2023)

The Adhiniyam gives the judiciary unified, broad guidelines for gathering and logging evidence, which aids in the administration of just proceedings. The Adhiniyam lays out the processes for collecting and submitting evidence before the court, whether it be primary, secondary, etc. Evidence will clarify purported facts and aid in the prompt and efficient delivery of justice.

This law offers simple methods for questions such as who is allowed to collect evidence, how it ought to be recorded, how it should be presented in court, and whether or not it is admissible.

India has experienced multiple instances of cybercrimes against minors in the past. As such, it is imperative that some of these examples that occurred before the implementation of this new criminal legislation be examined before we go into detail about the salient features of Bharatiya Sakshya Adhiniyam 2023 and how its understanding will assist the youngsters.

Salient Features of Bharatiya Sakshya Adhiniyam



The era of technical progress has greatly influenced collecting, protecting and presentation of evidence. The new digital environment we live in has been taken into consideration when this Adhiniyam was passed. Following are some key highlights from the Bharatiya Sakshya Adhiniyam, 2023:

- The Adhiniyam of 2023 contains 4 parts, 12 chapters, a schedule and it includes 170 sections.
- This Adhiniyam replaces the Indian Evidence Act, 1872.
- 'Act' is replaced with 'Adhiniyam'.
- The Indian Evidence Act of 1872 (IEA) jurisdiction covered the entire territory of India; however, the Bharatiya Sakshya Adhiniyam of 2023 (BSA) does not have this territorial provision.
- The definition of 'document' now includes electronic or digital records on emails, server logs, documents on laptops, mobile, tablets, cloud, voice messages or any digital device, etc. The definition expands the scope of documents from paper-based data to electronic records.



- The definition of 'evidence' has likewise been expanded to include electronic information.
- Similarly, the scope of primary evidence (under section 57) and secondary evidence (under section 58) has been widened to include digital or electronic records and files.
- The new electronic evidence will hold the same evidentiary value as the traditional paper records/documents. The legal effect, enforceability and validity of electronic evidence will be the same as non-digital record.
- Words like barrister, pleader, attorney or *vakil* are replaced by 'advocate'.

With the purpose of enforcing justice, this new criminal statute aims to significantly change how evidence is perceived and assessed. To make this rule more effective, a number of significant and new modifications have been made, considering the increasing influence that technology has on our lives, especially on that of children. The most important change is in the new definition of 'document' out of all the numerous new additions. Digital and electronic recordings are also accepted as proof by it.

Consequently, it shields kids who are susceptible to violence through digital media. This will inform the kids on their legal rights in the event that they become victims and warn them about the dangers of participating in any illegal web-based activity.

Digital World: Boon and Bane



In today's world, we cannot imagine our physical space or lives without technology. Technology surrounds us in the form of mobile phones, laptops, desktops, tablets, devices and gadgets. These devices allow us to engage with humans through phone calls, video calls, mails, chats, social media platforms, apps, etc., thereby creating for us a digital world also known as the virtual world. We can have access to this digital world without having to move from our chairs and with just the click of a button. The virtual world has advantages as well as disadvantages. Below mentioned are the advantages and disadvantages of digital technology in a tabular form.



Advantages and Disadvantages of Digital Technology

Advantages	Disadvantages
It acts as a tool for learning and information.	Not spending enough time with family and becoming unsocial.
It makes learning engaging and interactive.	Not engaging in any physical activity and thereby gaining weight, reduced attention span, etc.
Even the most disadvantaged and marginalised children can have access to information and knowledge.	Overuse of devices reduces sleep quality, thereby sleeping less than the prescribed time.
Acts as a medium of creativity and imagination.	Exposed to harmful things like digital fraud, cyberbullying, phishing, cyberstalking, hacking, identity theft and child sexual abuse.



Below mentioned is a case study. Observe the case carefully and try to answer the questions mentioned in the box.

Case study- The Blue Whale Game

The 'game'

📌 What is the Blue Whale Challenge?

It is an alleged game wherein the group of people running it finds possible targets, usually vulnerable teenagers on social media and presents them with a list of 50 tasks, which end with the victims killing themselves. The game is reported to have originated out of Russia and preys on users going through bouts of depression or those trying to actively search for those behind the game.

📌 What are the tasks like?

They can range from the mundane, like getting a tattoo on the forearm, to the bizarre, like inflicting cuts on body parts and waking up at odd hours to listen to music sent to the victim. The tasks have to be recorded and anyone trying to cheat will stop receiving further tasks.

📌 Does it really exist?

While the presence of the game has not been verified, the Moscow police arrested one of the so-called masterminds in June. Philipp Budeikin, 21, later pleaded guilty to inciting teenagers to commit suicide. The challenge has reportedly spread to countries such as Spain, Portugal, Ukraine, Britain, France, India and the United States.

🗣️ Who gets to 'play'?

According to media reports, you cannot sign up to play the game. You have to be invited.

Pop culture link

The Blue Whale Challenge is the most recent social media phenomenon that has added fire to the outrage following the release of Netflix's **13 Reasons Why**. The show, which deals with a troubled teen and her reasons to commit suicide, has attracted extreme reactions.



Source: <https://www.thehindu.com/news/cities/bangalore/blue-whale-effect-helpline-sees-rise-in-calls-from-worried-parents/article19494206.ece>

Answer the following questions based on the newspaper clipping.

1. Where did the game originate and who invented it?
2. What are the tasks that are assigned to the children?
3. Now that the term evidence has been explained, what type of evidence you can identify?
4. What are the risks of playing such a game?
5. Can you identify some indoor games that you can play with your family? Draw a picture of the same.



Group Activity for class

- **Evidence scavenger hunt:** Create a scavenger hunt (based on a story) where students must find examples of different types of evidence, for example, documentaries, testimonials, photos, etc.
- **Debates:** Organise student debates on provisions of BSA to encourage critical thinking and understanding of the rationale behind evidence.
- **Courtroom Experience:** Assign students different roles such as prosecutor, defence counsel and judge and give them specific case scenarios where they will furnish evidences and base arguments on the same.
- **Guest speaker session:** Invite a legal professional to speak about the practical implications of the BSA.

Conclusion

In this fast-moving world where every information is available at the click of a button, it becomes very important that children are safeguarded from all that they are observing through the information received from the digital world. Post the COVID-19 era, the influence of the digital world has increased many folds, making them even more vulnerable to cybercrime. In this direction, a monumental step has been the introduction of the new criminal laws, specifically, the Bharatiya Sakshya Adhiniyam, 2023. This law has expanded the definition of document and now includes digital and electronic records as well. The purpose of the provision is to address the difficulties and intricacies of the legal environment in the digital age. It takes into account technological developments, complies with current legal reforms and resolves systemic problems that have existed for a while. It reduces the procedural complexities by streamlining the process for collection, recording and presenting evidence. It makes it easier for police to record evidence from minors and protect them accordingly. Such addition will definitely ensure the safety of the children.

Message for Parents

It should bring great joy to you with the introduction of the three New Criminal Laws in 2023. All the laws are connected to each other. However, Bharatiya Sakshya Adhiniyam 2023 could be of help to your child. In this



world of digital boom, it is very important for parents to ensure that your children use the digital information and gadgets judiciously. You all should be mindful and ensure that such interaction does not cause any harm to them. Our primary motto should be to keep our children safe.

Children are the future of our country and it is our duty to ensure that we leave behind a safe country, and a world for them to flourish and grow to become global citizens. Laws like that of Bharatiya Sakshya Adhiniyam 2023 will be a step closer to ensure the creation of this viable environment for our children.



References

https://ncpcr.gov.in/uploads/1702548255657ad31ff39b4_preventing-bullying-and-cyberbullying-guidelines-for-schools.pdf

<https://rlsa.gov.in/pdf/Crime%20Against%20%20Children-RLSA.pdf>







32165

विद्यया ऽ मृतमश्नुते



एन सी ई आर टी
NCERT

राष्ट्रीय शैक्षिक अनुसंधान और प्रशिक्षण परिषद्
NATIONAL COUNCIL OF EDUCATIONAL RESEARCH AND TRAINING