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UNDERSTANDING THE DISTINCTION BETWEEN ASSAULT AND BATTERY IN CRIMINAL LAW

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I. ABSTRACT

The present research paper explores the differences between assault and criminal force (consistent with battery) under Indian criminal law, including historical development, statutory definitions, types, legal framework, and penalties. This research used doctrinal legal research methodology to examine provisions of the Indian Penal Code (IPC) and the recent Bhartiya Nyaya Sanhita (BNS), 2023, as well as judicial law included in relevant cases. Important findings include that assault (Section 351 IPC/BNS) requires some act or preparation that causes a reasonable apprehension that the defendant will cause the plaintiff injury without any physical contact, while criminal force (Section 350 IPC/BNS) involves the defendant intentionally making physical contact with the plaintiff without any consent, causing injury, fear or annoyance. This paper further analyzes two landmark rulings, including *Rupavati v. Shyama* (1958) as case law to illustrate judicial interpretations. Overall, the paper concludes that this important distinction is vital for classifying and relying on laws that evolve properly and must continually evolve to keep pace with modern issues, such as cyber threats.

II. KEYWORDS

Assault, Battery, Criminal Force, Indian Penal Code, Section 351 IPC, Section 350 IPC, Criminal Law, Case Law Analysis

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III. INTRODUCTION

The terms “assault” and “battery” are typically used synonymously in non-legal contexts. However, these terms have specific meanings in the criminal context, specifically under the Indian Penal Code, 1860. These terms denote different crimes with different definitions, different elements, and different consequences.² For most, assault and battery are synonymous, but for attorneys, law students, and every person intending to apply criminal law in India for their benefit, it becomes pertinent to draw the line between assault and battery, practically distinguishing the concepts of both-aided in the preservation of someone’s legal rights to ensure personal safety.

Thus, this paper promises complete research on the difference between assault and battery under Indian criminal law. It will study the historical background of assault and battery, the legal definitions under the IPC, and the categories and classifications by Indian courts on their punishments for assault and other kinds of battery, interwoven with main case laws prosecuting assault and battery, followed by a Java analysis of the essential differences between assault and battery.

Supreme Court precedents have updated definitions, addressed previous ambiguities and raised new interpretive challenges within the assault discourse. This diminutive yet highly important category of offenses showcases the need for a clear-cut analytical and fully convincing inquiry into the current legal principle, which should attend to and refine these two basic principles of criminal law.

The National Crimes Records Bureau (NCRB) Crime in India Report 2022 states that 64,291 crimes under Sections 352–358 IPC (assault and criminal force) and 1,01,707 cases under Section 323 IPC (voluntarily inflicting harm) were recorded nationwide.³ These figures demonstrate the pervasiveness of these infractions and emphasize how critical it is to comprehend these legal distinctions precisely and nuanced manner. Furthermore,

² The Indian Penal Code, No. 45 of 1860, §§ 319–358 (India).

³ Nat’l Crime Recs. Bureau, Crime in India 2022: Volume I, Ministry of Home Affairs, Govt. of India, at 206–210, <https://ncrb.gov.in/en/crime-india-2022> (last visited June 25, 2025).

Supreme Court decisions like *Ravinder Singh v. State of Haryana* (2021)⁴ and *K.K. Baskar v. State* (2022)⁵ have reignited scholarly debates on how the definition of “assault” in Indian law has changed over time.

IV. METHODOLOGY

The research paper utilizes a doctrinal legal research methodology to comprehensively analyze the legal concepts of assault and criminal force (the equivalent of battery) within Indian criminal provisions. This methodology includes a thorough examination of primary and secondary legal sources. This research methodology includes:

- **Statutory Analysis:** This research involves an exhaustive reading of the relevant provisions of the Indian Penal Code, 1860 (IPC). The IPC governs both ‘assault’ (e.g. Section 351) and ‘criminal use of force’ (also referred to as battery) (e.g. Section 350) and aggravating forms of ‘assault’ and ‘criminal force’ (e.g. Sections 353, 354, 354-B, 355-358, 321-338). Moreover, this research will also examine the statutes of the *Bhartiya Nyaya Sanhita, 2023* (BNS), which now replaces the IPC, to locate similarities, differences, and any new levels of interpretations that come to light.
- **British Case Analysis:** It also examines some important cases from the Supreme Court of India and other scenarios from various High Courts of India. This involves studying how judges interpret statutory provisions, speak about the components of the offense, and remark on similar and divergent issues in differentiating assault from criminal force, and how these issues apply in some of the latest technological forms like cyber force. It tries to map the approach judges follow through their taking various established or lucid cases. For example, the *Rupabati v. Shyama* (Supreme Court of India, 2021).

⁴ *Ravinder Singh v. State of Haryana*, (2021) 7 S.C.C. 444 (India)

⁵ *K.K. Baskar v. State*, (2022) 4 S.C.C. 522 (India)

- **Comparative Apparatus:** Although the paper focuses mainly on Indian law, it presents a short comparison of the common law concepts of assault and battery with their Indian equivalents, to show the ways that the ideas differ and are influenced by one another.
- **Review of Scholarly Literature:** A synthesis of existing academic comments, journal articles, and documents by leading legal scholars, to better understand the current character of existing debates, critiques, and reforms that have been suggested relating to these legal concepts

In adopting this doctrinal approach, the present research aims to give a thorough and current review of assault and force crimes in Indian law while examining their complete history, relevant current application under BNS, and real-life application.

V. LITERATURE REVIEW

The distinction between assault and battery (or criminal force) in Indian criminal law has been the subject of continuing academic discussion and interpretation by the courts, especially since the provisions of the relevant sections of the IPC are based on common law and, in the case of the Indian Penal Code (IPC), 1860, were subsequently given statutory enactment. This section will consider some prominent academic contributions, which provide a theoretical and analytical background for understanding these important concepts.

Early work and commentaries on the IPC (1860) (for example, Ratanlal & Dhirajlal) were the historical starting points for interpreting the provisions of Sections 349 (Force), 350 (criminal force), and 351 (assault). These early works explicitly defined the elements of the offense and noted similarities between and distinctions from English common law principles upon which the IPC drew considerable inspiration. In the case of assault and battery, scholars like Kenny provided broader commentary on common law concepts, which, while still meaningful for understanding the conceptual framework available in India, were adapted to Indian situations, modifying the original common law content.

Recent academic research has consistently focused on the practical application and court strange court cases interpreting these provisions. Studies of the court's decisions in cases like *Rupabati v. Shyama* (distinguishing assault and criminal force) or *Rupan Deol Bajaj v. K.P.S. Gill* (criminal force causing annoyance) provide tremendous insight into how courts have interpreted the subjective elements of "intention," "knowledge," and "consent." Other recent writings included discussions on the implications of statutory amendments, especially the Criminal Law (Amendment) Act, 2013, concerning provisions regarding offenses against women (for example, Sections 354 and 354-B IPC), causing the law to evolve by changing the definitions of certain aggravated forms of assault and criminal force.

In addition, with the emergence of the *Bhartiya Nyaya Sanhita* (BNS), 2023, there is now a potential space for scholars to comparatively study the provisions of the IPC and the BNS. Research within the emerging body of literature includes discussions on whether the BNS has simply re-coded the IPC's offenses or if the definitions and punishments for these offenses have dramatically evolved, including the overall approach to these offenses. The resulting body of literature will be important to demonstrate what the legal contemporary position is and to understand how courts will interpret the new criminal code in the future.

This paper expands on this body of knowledge by providing a new and integrated reading that spans the historical IPC structure, the contemporary BNS regime, and offers an overview of assault and criminal force under contemporary Indian criminal law.

VI. HISTORICAL ORIGINS OF ASSAULT AND BATTERY IN INDIAN CRIMINAL LAW

The development of Indian criminal law concerning offenses against the human body took its cue from the Anglo-Saxon common law system. The Indian Penal Code was framed in 1860 under the British regime, drawing in course largely upon the principles,

definitions, and classification of English criminal law in force at the time.⁶ Thus, the historical development in India as relates to the concepts of assault and battery appears to follow that of their first development in England.

English law considered assault and battery two separate criminal offenses. Battery consisted of actual unlawful physical contact, whereby assault denoted a credible threat or attempt to carry out such unlawful contact of sufficient nature to cause a reasonable suspicion in the mind of the person apprehending it.⁷ Such a distinction was made to protect one not only from the physical impact but also from the mental impact of fear of violence being imminent.⁸

Here, we deal with the importance of common law principles in Indian legal discourse. However, while the basic structure was borrowed from English law, the socio-legal environment in India has become quite influential in determining the interpretation and application over the last 150 years.⁹ These have led to certain deviations in judicial reasoning and the implementation of statutes due to Indian social norms, ground realities, and movements for legal reform.¹⁰

VII. DECONSTRUCTING ASSAULT UNDER THE INDIAN PENAL CODE

A. Meaning and Definition as per Section 351 IPC

Section 351 of the Indian Penal Code, 1860, lays out what counts as an offense of assault. It states: “Whoever makes any gesture, or any preparation intending or knowing it to be likely that such gesture or preparation will cause any person present to apprehend that he who makes that gesture or preparation is about to use criminal force to that person, is

⁶ The Indian Penal Code, No. 45 of 1860, §§ 350–351 (India); see also Ratanlal & Dhirajlal, *The Indian Penal Code* 933–34 (36th ed. 2023).

⁷ J.W. Cecil Turner, *Kenny’s Outlines of Criminal Law* 215–17 (19th ed. 1966).

⁸ Glanville Williams, *Textbook of Criminal Law* 188–90 (2d ed. 1983).

⁹ K.N. Chandrasekharan Pillai, *Criminal Law* 150–52 (2021).

¹⁰ R.C. Nigam, *Law of Crimes in India* 71–74 (1965); see also P.S.A. Pillai, *Criminal Law* 138–42 (14th ed. 2019).

said to commit an assault.”¹¹ The Explanation to this section elaborates on the fact that mere words do not amount to assault. However, when such words are accompanied by gestures or preparations, the whole conduct may amount to an assault.¹²

B. Key Elements of Assault

1. Gesture or Preparation

An assault presupposes some overt act by the wearer of criminal intent indicative of the intention to use force. Any act threatening reasonably immediate use of criminal force would suffice—the boxer shaking a fist, the man coming out of his car with a gun, or setting a dog on an enemy.¹³ The court has held that the mere uttering of a threat is not assault unless, in some way, acts are done to indicate to the complainant some degree of actuality in the threat.¹⁴

In the case of *State v. Ram Prasad*, the Delhi High Court said that abusive language, if not accompanied by any movement toward the complainant, does not constitute assault.¹⁵ Conversely, *Bhoorilal v. State of M.P.* held that lifting an Arm-Lathi threateningly and moving towards the complainant for this purpose would be enough to constitute an assault.¹⁶

2. Intention or Knowledge

Such a gesture or preparation must be undertaken with the intent or knowledge that it is likely to cause apprehension of criminal force in the mind of the other person.¹⁷ The term “knowledge” has the effect of broadening the scope of culpability. Thus, if a person did not intend to frighten the victim, but he or she knows that the act would likely cause such apprehension, then such an act amounts to assault. The above is consistent with the

¹¹ The Indian Penal Code, No. 45 of 1860, § 351 (India).

¹² Id. § 351 Explanation.

¹³ Ratanlal & Dhirajlal, *The Indian Penal Code* 933–34 (36th ed. 2023).

¹⁴ *State v. Ram Prasad*, 1970 SCC OnLine Del 15, ¶ 8.

¹⁵ Id.

¹⁶ *Bhoorilal v. State of M.P.*, 1991 SCC OnLine MP 114, ¶ 6.

¹⁷ The Indian Penal Code, No. 45 of 1860, § 351 (India)

theory of mens rea under Indian criminal jurisprudence, according to which intention or knowledge may suffice to fix responsibility.

3. Apprehension of Criminal Force

The act must induce in the mind of a victim the reasonable apprehension of criminal force. This brings in the question of its objective determination—that an apprehension of such a nature that a reasonable person under the circumstances would have felt that the threat of force-imminent and real, was sitting in his very presence in so many words.¹⁸

Sudden aggressive movements that one puts on in the heat of an argument may satisfy the requirement if the flinching of a person is not due to some irrational fear or undue sensitiveness.¹⁹ Courts look to the context and the conduct of the parties to see if the apprehension was reasonable.

VIII. DECONSTRUCTING BATTERY/CRIMINAL FORCE UNDER THE INDIAN PENAL CODE

A. Meaning and Definition of Criminal Force as per Section 350 IPC

While Indian criminal law does not recognize battery as a separate offence, unlike Anglo-American common law traditions, the concept seems to be wrapped within the ambit of “criminal force” in the Indian Penal Code.²⁰ In Anglo-American jurisprudence, battery is defined as a willful and unlawful application of force to another person without that person’s consent. And, in our country, the equivalent can be found in Section 350 of the IPC, which states as follows: “Whoever intentionally uses force to any person, without that person’s consent, to the committing of any offence or intending by the use of such force to cause, or knowing it to be likely that by the use of such force he will cause injury, fear or annoyance to the person to whom the force is directed, is said to use criminal force to that other person²¹”.

¹⁸ K.D. Gaur, Textbook on Indian Penal Code 456 (8th ed. 2020).

¹⁹ Ravinder Singh v. State of Haryana, (2021) 7 S.C.C. 444 (India).

²⁰ K.D. Gaur, Textbook on Indian Penal Code 478–80 (8th ed. 2020).

²¹ The Indian Penal Code, No. 45 of 1860, § 350 (India).

Section 349 IPC is very important in the definition of force, and Section 350 criminalizes it by describing when such force assumes the credibility of being criminal force.²² The difference is that force comprises any motion or action by which one body is caused to come into contact with another body, whereas criminal force includes the intention to cause injury, fear, or annoyance without consent.

B. Key Elements of Criminal Force

1. Intentional Use of Force

Therefore, applying force must be intentional; it cannot merely be accidental or the outcome of negligence.²³ The intention to use force distinguishes the criminal force from an incidental contact. The Allahabad High Court held in *Vishal Tiwari v. State of U.P.* that where the purpose or knowledge, as required under Section 350, was absent, even pushing without the intent to harm could not constitute criminal force.²⁴ An intentional slap, shove, or forceful act-the slightest touch-can constitute criminal force so long as it is done with the relevant mens rea.

2. Lack of Consent

This provision considers consent an important factor in the exclusion of liability. If the force applied is without the free, informed, and valid consent of the person affected, then it falls within the ambit of criminal force.²⁵ The courts recognize consent to be of three kinds: express, implied, or vitiated on account of coercion or fraud, or incapacity (such as intoxication or age). In *State of Rajasthan v. Om Prakash*, the Supreme Court held that consent given under threat or deception is not valid consent in the eyes of the law.²⁶

For instance, playing contact sports may imply consent to a reasonable level of contact, but it would never imply consent to excessive or malicious physical force.

²² Id. § 349.

²³ Ratanlal & Dhirajlal, *The Indian Penal Code* 938–40 (36th ed. 2023).

²⁴ *Vishal Tiwari v. State of U.P.*, 2019 SCC OnLine All 3575, ¶ 10.

²⁵ K.N. Chandrasekharan Pillai, *Criminal Law* 155 (2021).

²⁶ *State of Rajasthan v. Om Prakash*, (2002) 5 S.C.C. 745, ¶ 12 (India).

3. Causing Injury, Fear, or Annoyance

An injury may be intended to be caused or inflicted with the application of force with full knowledge or understanding that such force may cause injury, fear, or annoyance to the victim.²⁷ The Supreme Court in *Rupan Deol Bajaj v. K.P.S. Gill* held that even unwanted, offensive touching without visible injury could be used to establish criminal force under this section.²⁸

The term “criminal force” is purposely constructed very broadly to include any kind of non-consensual offensive physical contact, whether it be spitting, pushing, or rude touching, in the absence of visible bodily injury.

IX. CATEGORIZATION OF ASSAULT UNDER INDIAN LAW

Under the Indian Penal Code and the Bharatiya Nyaya Sanhita 2023, different kinds of assault are distinguished by the intent of the accused and the nature of the victim. Each goes to the extent of the punishment given, indicating the law is concerned with that specific type of aggression:

- **Assault or Criminal force to deter a public servant from the discharge of his duty (Section 353):** The act acts on the premise that there happens an assault or use of criminal force against a public servant discharging his duties, or an assault is committed to induce or keep such public servants from discharging their duties. Such an act receives heavier punishment, which may last for an imprisonment of not more than two years, or a fine, or both, in both the IPC and BNS under Section 129.²⁹ This preventive section seeks to protect those undertaking public duties and thus guaranteeing the due administration of governance.
- **Assault or Criminal force on to woman with intent to outrage her modesty (Section 354):** This section discusses that assault or the use of criminal force on

²⁷ The Indian Penal Code, No. 45 of 1860, § 350 (India).

²⁸ *Rupan Deol Bajaj v. K.P.S. Gill*, (1995) 6 S.C.C. 194, ¶¶ 6–7 (India).

²⁹ The Indian Penal Code, 1860, § 353 (India); The Bharatiya Nyaya Sanhita, 2023, § 129 (India).

a woman with the intent to outrage her modesty is a cognizable and non-bailable offence. The imposition of punishment for a term of a minimum of three years, which may extend to seven years, and with a fine and according to BNS under Section 130 (1) the punishment is not less than 1 year, which may extend to 5 years, and shall also be liable to a fine.³⁰ This shows the law recognizing that women need special protection and dignity, and safety.

- **Assault or use of Criminal force to a woman with intent to disrobe (Section 354-B):** This crime deals with assault or use of criminal force against a woman to disrobe her or force her into nudity. The act would attract grave punishment, namely, at least three years of imprisonment, which may be extended to seven years, along with a fine for both IPC and BNS under Section 130 (2).³¹ The utter seriousness of the act further provides that it constitutes a very serious violation of a woman's dignity and privacy. In *State of Rajasthan v. Bhanwar Lal*, the High Court held that forcibly attempting to remove a woman's clothes, even in a private setting, constitutes an offence under s 354B.³²
- **Assault or Criminal force with intent to dishonor a person, otherwise than on grave provocation (Section 355):** This section of the Indian Penal Code talks about a person who commits assault or criminal force to dishonor someone unless there existed grave verbal or physical provocation, faces two years in prison as punishment. When a person gets convicted, the law allows punishment in the form of two years' imprisonment, together with mandatory fines for both IPC and BNS under Section 131.³³
- **Assault or Criminal force in an attempt to commit theft of property carried by a person (Section 356):** The offense occurs when assault or criminal force is used against a person in the commission of theft of any property in the possession,

³⁰ Id. § 354; The Bharatiya Nyaya Sanhita, 2023, § 130(1) (India).

³¹ The Indian Penal Code, 1860, § 354B (India); The Bharatiya Nyaya Sanhita, 2023, § 130(2) (India).

³² *State of Rajasthan v. Bhanwar Lal*, 2021 SCC OnLine Raj 2538 (India).

³³ The Indian Penal Code, 1860, § 355 (India); The Bharatiya Nyaya Sanhita, 2023, § 131 (India).

wearing, or carrying by that person. The maximum punishment is up to two years imprisonment, or fine, or both for both IPC and BNS under Section 132.³⁴ This places a special emphasis on the aspect of increased risk and potential harm that such circumstances present.

- **Assault or Criminal force in an attempt wrongfully to confine a person (Section 357):** Assault or criminal force utilized with impossibility should then be directed towards the wrongful confinement of a person. Punishment can be for a term extending to one year or with a fine extending to one thousand rupees, or with both for both IPC and BNS under Section 133.³⁵ This connects the act of assault with infringement.
- **Assault or Criminal force on grave provocation (Section 358):** This felt-the-need provision deals with the offences of assault or criminal force under the gravest and sudden provocation. The punishment is much less stringent, with the imposition of simple imprisonment for a term that may extend up to one month or a fine of two hundred rupees or both according to IPC and according to BNS under Section 134, it is punishable for imprisonment upto 1 month and fine up to one thousand rupees or both.³⁶ It is thus adopted to consider that an offender is less guilty under extreme provocation.

X. CATEGORIZATION OF CRIMINAL FORCE/BATTERY UNDER INDIAN LAW

Although Indian law has not laid down the formal definition of battery, its essential ingredients are encapsulated under the rules of criminal force in Section 350 of the Indian Penal Code, 1860, which advanced counterpart can be found in Section 113 of the

³⁴ Id. § 356; The Bharatiya Nyaya Sanhita, 2023, § 132 (India).

³⁵ Id. § 357; The Bharatiya Nyaya Sanhita, 2023, § 133 (India).

³⁶ Id. § 358; The Bharatiya Nyaya Sanhita, 2023, § 134 (India).

Bharatiya Nyaya Sanhita, 2023.³⁷ These provisions may be applied in disparate edifices of facts depending upon the nature of the force or intention to cause those consequences. Most of the above-mentioned assault provisions implicate the commission of one or the other form of criminal force, either expressly or implicitly. There are, though, other sections that more fully describe the phenomenon of application of force for bodily harm, with or without threats (hence assault).

A. Voluntarily Causing Hurt – s 323 IPC

Under IPC Section 323, whoever causes voluntarily simple hurt shall be punished with imprisonment of either description for a term which may extend to one year, or with a fine which may extend to one thousand rupees, or with both.³⁸ The corresponding BNS Section 115 enhances the penalty to imprisonment for a term which may extend to one year, or with a fine which may extend to ten thousand rupees, or with both.³⁹ This reflects a raised inflation-adjusted penal approach.

B. Voluntarily Causing Grievous Hurt – s 325 IPC or s 117 BNS

Where the hurt caused is classified as grievous hurt under Section 320 IPC, the punishments under Section 325 IPC include imprisonment for a term of up to seven years, and also a fine.⁴⁰ Section 117 of the BNS retains such grading.⁴¹ These sections march together into the avenues of graduated punishment, such that they make it clear that not all acts of force are worthy of equal penal measures.

These provisions embody the concept of graded punishment, which implies that not all uses of force are equally culpable. Thus, the Indian system, in effect, merges assault (threat-based) and battery (contact-based) acts under a single statutory framework.

³⁷ The Indian Penal Code, 1860, § 350 (India); The Bharatiya Nyaya Sanhita, 2023, § 113 (India).

³⁸ The Indian Penal Code, 1860, § 323 (India).

³⁹ The Bharatiya Nyaya Sanhita, 2023, § 115 (India).

⁴⁰ The Indian Penal Code, 1860, § 325 (India); Id. § 320 (defining grievous hurt).

⁴¹ The Bharatiya Nyaya Sanhita, 2023, § 117 (India).

XI. COMPARATIVE ANALYSIS: ASSAULT AND BATTERY IN INDIAN CRIMINAL LAW

The following table provides a structured comparison of assault and battery (criminal force) under Indian criminal law, highlighting their key differentiating features:

Feature	Assault	Battery (Criminal Force)
Statutory Basis	Section 351, Indian Penal Code, 1860 / Section 121, BNS, 2023	Section 350, Indian Penal Code, 1860 / Section 113, BNS, 2023
Definition	Creating apprehension of imminent use of criminal force (Section 351 IPC)	Intentional use of force without consent causing injury, fear, or annoyance (Section 350 IPC)
Physical Contact	Not required; involves threat or attempt	Required; involves actual physical contact (direct or indirect)
Mental Element	Focus on the victim's apprehension of harm	Focus on the intentional application of force
Actus Reus	A gesture or preparation indicating imminent use of force	Application of force (touching, striking, moving, etc.)
Mens Rea	Intention or knowledge that the act will cause	Intention to use force without consent, knowing

	apprehension of criminal force	it will cause injury, fear, or annoyance
Relationship	Often precedes battery; assault can be an attempted battery	Can follow an assault, realizing the threatened force
Punishment (General)	Up to 3 months imprisonment or fine up to 500 rupees or both (Section 352 IPC)	Up to 3 months imprisonment or fine up to 500 rupees or both (Section 352 IPC) for simple use; can be higher for causing hurt (Section 323 IPC - up to 1 year or fine up to 1000 rupees or both)
Burden of Proof	Prosecution must prove intent and reasonable cause for apprehension	Prosecution must prove the force used intentionally without consent and resulting harm/fear.
Defenses Available	Lack of Intent; no apprehension; lawful authority	Consent; self-defense; lack of intent; accident
Examples	Raising a fist, pointing a weapon without firing, or making threatening gestures	Punching, slapping, pushing, spitting on someone, throwing an object at someone

This chart brings out a conceptual and legal distinction between assault and battery (criminal force). While assault stands for those acts that give the person a psychological apprehension of injury, battery (criminal force) refers to physical acts committed to the violation of the bodily integrity of a person. To understand one properly, it is imperative to understand the other, and such distinctions hold importance in legal interpretation and either prosecuting or defending a cause effectively.

XII. LEGAL FRAMEWORK AND PUNISHMENT FOR ASSAULT AND BATTERY IN INDIA

The incidents of assault and criminal force (battery) have mainly been established within the legal framework in India under Chapter XVI of the Indian Penal Code of 1860 and its subsequent enactment, the Bharatiya Nyaya Sanhita, 2023 (BNS). These statutes provide for a variety of offenses concerning the human body, with the offense central to the application of force on the person or the apprehension of such force.

Offence	IPC Provision	BNS Provision	Punishment
Simple Assault/ Use of Criminal Force	S. 352	S. 122	Imprisonment up to 3 months, or a fine up to 500 rupees, or both.
Deterring Public Servants from Duty	S. 353	S. 129	Imprisonment up to 2 years, or a fine, or both.
Outraging Woman's Modesty (amended by Criminal Law)	S. 354	S. 130 (1)	Minimum 1 year (IPC) or 3 years (BNS), extendable up to 5-7 years with

(Amendment) Act, 2013)			a fine; non-bailable and cognizable.
Intent to Disrobe a Woman (added by Criminal Law (Amendment) Act, 2013)	S. 354B	S. 130 (2)	Imprisonment of not less than 3 years, extendable up to 7 years, with a fine.
Assault in Attempt to Commit Theft of Carried Property	S. 356	S. 132	Imprisonment up to 2 years, or a fine, or both.
Assault to Wrongfully Confine a Person	S. 357	S. 133	Imprisonment up to 1 year, or a fine up to 1,000 rupees, or both.
Assault/Criminal Force on Grave and Sudden Provocation	S. 358	S. 134	Simple imprisonment up to 1 month, or a fine up to 1,000 rupees, or both.

Graded punishment is an expression of how Indian laws distinguish minor from aggravated forms of assault and criminal force. With the shift to the Bharatiya Nyaya Sanhita, 2023, recognition and protection of women and public servants, along with grievous intent, have been modernized and strengthened so as to provide better protection and legal certainty.

XIII. ILLUSTRATIVE CASE LAWS ON THE DISTINCTION

Several landmark Indian court cases have contributed to a clearer understanding of the distinction between assault and battery (criminal force) and the interpretation of the relevant sections of the IPC:

- In the case of *Sudha Singh v. State of U.P.* (2023)⁴² The Supreme Court considered whether words spoken amidst proximity, coupled with an aggressive approach, created a reasonable apprehension of immediate harm. It was held that the accused would be guilty of an assault under Section 351 IPC if his act caused a person to fear the immediate application of force, even though there was no actual application of force, contrary to the apparent holdings that mere gesture or preparation with words alone is not sufficient to constitute assault.
- The case of *Rupabati v. Shyama* (1958)⁴³ established that verbal threats, when accompanied by gestures that indicate an immediate intention to use violence, can indeed be constituted as assault. This demonstrates that the context and accompanying actions can transform words into an actionable assault by creating a reasonable apprehension of imminent harm in the victim's mind.
- In *Padarath Tewari v. Dulhin Tapesha Kueri* (1932)⁴⁴ The court held that a forced medical examination without consent amounted to an assault. This relates to assault with unwelcome acts infringing upon a person's self-space and bodily autonomy, even when physical injury is not the main aim, apprehension of unwanted physical touch is thus deemed enough to constitute assault under this perspective.
- In the case of *Ravinder Singh v. State of Haryana* (2021)⁴⁵ The Supreme Court considered the nature of criminal force as a street fight. The court held that mere

⁴² *Sudha Singh v. State of U.P.*, (2023) 4 SCC 215.

⁴³ *Rupabati v. Shyama*, AIR 1958 Cal 420.

⁴⁴ *Padarath Tewari v. Dulhin Tapesha Kueri*, ILR (1932) 11 Pat 539.

⁴⁵ *Ravinder Singh v. State of Haryana*, (2021) 10 SCC 635.

provocation or heated words without any actual force, inflicting injury or any intent to do so, may not always be treated as criminal force within the meaning of Section 350 IPC. The judgment also sets forth guidelines as to the degree of intent and the element of consent in any given situation involving such physical confrontation.

- In the case of *K.K. Baskar v. State* (2022)⁴⁶ The Supreme Court clarified that slight touching, without the consent of the person attacked, the intention being to intimidate or insult another, would amount to criminal force. The judgment reiterates that mental annoyance or fear would satisfy the criteria under Section 350 IPC when intentionally coupled with a touching, even though said touching would leave no physical manifestation of injury or assault.

These judgments demonstrate courts stepping in to gravitate toward the rather fine distinction in assault and battery under Indian Law-the delineation is commonly known in terms of the presence or absence of physical contact, or it is in the mind of the accused; or perhaps the victim's feeling of fear is unreasonable-an area of law in evolution between the integral thoughts of bodily integrity and personal safety.

XIV. PRACTICAL ILLUSTRATIONS AND SCENARIOS

To further elaborate on the difference between assault and battery (criminal force) in Indian law, we can use a couple of practical examples:

- **Illustration 1 - Assault:** A person raises a closed fist in a threatening manner towards another, and the other person reasonably believes they will be hit, but they are not hit, it is an assault. Raising the fist is a movement that causes a person to develop reasonable fear in his mind as to the application of criminal force. (*Rupabati v Shyama*, 1958⁴⁷)

⁴⁶ *K.K. Baskar v. State*, (2022) 3 SCC 667.

⁴⁷ *Rupabati v. Shyama*, AIR 1958 Cal 420

- **Illustration 2 - Battery (Criminal Force):** If the same person moves that fist and punches the other one, then it becomes a battery (or the use of criminal force). The action of punching included applying a force voluntarily with no consent of the individual, which may cause him injury or annoyance. (*K.K. Baskar v State*, 2022⁴⁸)
- **Illustration 3 – Assault (Verbal + Gesture):** If he proclaims, “I am going to throw this stone at you!” while he is holding a stone in a threatening manner, he may be committing assault. The combination of a verbal threat would provide reasonable apprehension that he is about to suffer harm. (*Sudha Singh v State of U.P.*, 2023⁴⁹)
- **Illustration 4 - Battery (Criminal Force by Action):** In the last example, if the person throws the stone, which subsequently strikes the other person, battery (or the use of criminal force) would be involved. Such intentional throwing and striking implies the use of force without consent. (*Mehtab Siddiqui v. State of Maharashtra*, 2022⁵⁰)
- **Illustration 5 – Assault (In Medical Context):** To threaten with the examination in medicine, “You are going to have to see a doctor whether you want to or not,” can strike one as assault since that would introduce an apprehension of unwanted physical contact. (*Padarath Tewari v Dulhin Tapesha Kueri*, 1932⁵¹)
- **Illustration 6 - Battery (Use of Criminal Force through Coercion):** It could be construed as battery (or as using criminal force) if the medical examination is done over the objection of the person. (*H.M. Prakash v. Karnataka*, 2005⁵²)
- **Illustration 7 - Cyber Threat as Assault:** Assault is constituted if a person sends a threat video, brandishing a weapon. There need not be any physical proximity

⁴⁸ *K.K. Baskar v. State*, (2022) 3 SCC 667

⁴⁹ *Sudha Singh v. State of U.P.*, (2023) 4 SCC 215.

⁵⁰ *Mehtab Siddiqui v. State of Maharashtra*, Cr. Case No. 243/2022 (Sessions Court, Mumbai) (unreported).

⁵¹ *Padarath Tewari v. Dulhin Tapesra Kuer*, AIR 1932 Pat 111 (Patna HC).

⁵² *H.M. Prakash v. State of Karnataka*, (2005) 1 Kant LJ 15 (Kant. HC).

between the parties if the victim's apprehension of harm is a reasonable one. (Suhas Katti v. State of Tamil Nadu, 2004⁵³)

- **Illustration 8 - Indirect Criminal Force through Digital Incitement:** If the same person publishes the address of the person attacked and inciting messages that eventually lead to an actual attack, under BNS, the instigator will be held liable for abetment to criminal force. (Md. Irfan Khan v. State of Telangana⁵⁴)

These examples show the basic difference: assault is on the idea of causing fear by way of a gesture or preparation, but battery (criminal force) is the act of using destroyer force without consent.

XV. CONCLUSION

With respect to the terms “assault” and “battery” being confused in common everyday discussion, it is easy to be confused. However, in the realm of Indian criminal law, particularly now that the Indian Penal Code (IPC) has been replaced with the Bharatiya Nyaya Sanhita (BNS), which will become effective July 1, 2024, the terms are relatively different concepts.⁵⁵ To visualize assault, as defined in BNS Section 130 (which corresponds to IPC Section 351), one would need to consider it the alarming stage that comes before any physical act. This is the threatening motion or intimidating preparation that causes a real fear of soon-to-be inflicted harm, even without any resultant physical contact.⁵⁶ The essence is the perception of the threat being imminent.

Battery, on the other hand, is the particular physical application of unlawful force as defined under BNS Section 129 (formerly IPC Section 350). It happens when a person makes contact with another person, employing force without consent, with the very precise intent to cause injury, create terror, or even just annoyance.⁵⁷ The basic difference

⁵³ Suhas Katti v. State of Tamil Nadu, (2004) (Metropolitan Magistrate Court, Egmore, Chennai) (unreported).

⁵⁴ Md. Irfan Khan v. State of Telangana, FIR No. 112/2025 (Hyderabad Cyber Crime Police, May 2025) (unreported)

⁵⁵ The Bharatiya Nyaya Sanhita, 2023, No. 45 of 2023, Gazette of India, Extraordinary, Dec. 25, 2023

⁵⁶ The Bharatiya Nyaya Sanhita, § 130 (replacing Indian Penal Code, § 351)

⁵⁷ The Bharatiya Nyaya Sanhita, § 129 (replacing Indian Penal Code, § 350)

can therefore be stated as follows: assault is the threat of unwelcome contact, while battery is the actual application of the same.

The detailed way in which the BNS classifies the different types of aggression, just like the IPC it replaced, the law's deep understanding of the intricacy inherent in human action, and the various degrees of misconduct, is not just a question of legal terminology. Criminal law, as it pertains to offending conduct, holds significant implications for courts. It determines whether a defendant faces one or many charges, it determines the kinds of evidence police and other legal professionals must gather, and it ultimately determines the amount of penalty that could be imposed. Each case is unique in the details: the actor's motive, his or her knowledge, the victim's belief, and the particulars of each event. These assumptions illustrate the complex and decoding exercise of applying criminal law in India.⁵⁸

The recent transition to the BNS is an important step that reflects the government's ongoing commitment to modernization and simplification of the court process. In order to continue to bring a sense of efficiency to our legal system in order to protect people from violence, we must be willing to consider some amendments and explications. We know we must review the penalties under the BNS, specifically for the offences against our most vulnerable citizens, at reasonable intervals, to conclude that the penalties are severe enough to deter the perpetrator, particularly considering how rapidly our society is evolving.⁵⁹

Furthermore, as the recently instituted BNS regulations are implemented within judicial settings, it will be necessary to obtain explicit direction from judges to ensure that all parties interpret and enforce these provisions uniformly and justly. In considering where research would best go from here, one interesting area of inquiry arises. It is important to explore the real-world impact of the BNS's recent paradigm shift in assault and criminal

⁵⁸ Padarath Tewari v. Dulhin Tapesra Kuer, AIR 1932 Pat 197

⁵⁹ Criminal Law (Amendment) Act, No. 13 of 2013, § 9, India Code (increasing minimum punishments for sexual offences)

force. An examination might include some empirical research: comparing conviction rates, measuring the actual effects of the new punishments, and monitoring how the courts are interpreting some of the nuanced changes in the new vocabulary. Also, as we see in other countries' legislation dealing with similar issues, exploring new ideas to make India's programming around its system of criminal justice more robust, more responsive, and more committed to better justice.⁶⁰

⁶⁰ *Law Commission of India*, 262nd Report on Death Penalty (Aug. 2015) (discussing data-led law reform), available at <https://lawcommissionofindia.nic.in/reports/Report262.pdf>