Context:

Two committees comprising legal luminaries have been constituted by the Home Ministry to amend various sections of the IPC.

What is the Indian Penal Code?

- The Indian Penal Code (IPC) is the official criminal code of India.
- It is a comprehensive code intended to cover all substantive aspects of criminal law.
- The code was drafted in 1860 on the recommendations of the first law commission of India under the chairmanship of Thomas Macaulay established in 1834 under the Charter Act of 1833.
- It came into force in British India during the early British Raj period in 1862. However, it did not apply automatically in the Princely states, which had their own courts and legal systems until the 1940s.
- After the partition of the British Indian Empire, the Indian Penal Code was inherited by its successor states, the Dominion of India.

Need for the amendment:

- It is believed that amending the code introduced by the British in 1860 is necessary as it is primarily based on the spirit of “master and servant”.
- Thomas Macaulay, in the five years he had on the Governor General’s Council, changed the face of India forever. He gave the IPC (Indian Penal Code).
- The Independence movement knew the IPC well. The nationalist leaders suffered day in and day out from it. It was repressive. But when they came to power, they did nothing to remove the IPC or even amend its worst features.
- The British have reformed their laws and their penal system. But India continues to follow this rusty 19th-century law.
- The Criminal justice system based on century-old outdated laws has led to harassment of people by the government agencies and also put pressure on the judiciary.
- There is uneven punishment for crimes of grievous nature. In some cases, the punishment is not commensurate with the gravity of the crime.
- The Penal legal system that was established by the British Rule in India has
still not undergone any substantial changes even after 70 years of independence while the entire Code of Criminal Procedure (Cr.P.C.) was amended in 1973. The biggest example could be Section 124A of the Indian Penal Code (IPC) that defines sedition and provides for its punishment.

Important Recommendations of Malimath Committee:

- The 158 recommendations of the committee, arrived at after examining several national systems of criminal law, especially the continental European systems, essentially propose a shift from an adversarial criminal justice system, where the respective versions of the facts are presented by the prosecution and the defence before a neutral judge, to an inquisitorial system, where the objective is the “quest for truth” and the judicial officer controls the investigation of offences.
- Its report has suggested the dilution of many of the pre-trial safeguards against violence in police custody that an accused has.
  - For instance, it seeks to double the 90-day period available for filing a charge-sheet after which an accused can be released on bail.
  - It also recommends that the permissible 15-day police remand of an accused be doubled for grave offences.
- Malimath Committee seems to have concentrated on the rights of the victim. It mentions the need to formulate a witness protection programme, reclassify offences, and involve the victim in all stages of the trial.
- On the question of making investigations more effective, it suggests the setting up of a State Security Commission, as recommended by the NPC, to insulate the police from political pressure.
- It has expanded the definition of rape to include all forms of forcible penetration, are eclipsed by the indifference to most of the concerns of the women’s movements. The committee does not favor the death penalty for rapists. In fact, the report states that wherever the death penalty is a possible punishment it should be replaced with life imprisonment without commutation or remission.