



# THE BHARATIYA NYAYA SANHITA, 2023

Act No. 45 of 2023

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# THE BHARATIYA NYAYA SANHITA, 2023

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# The Bharatiya Nyaya Sanhita (BNS), 2023, set to replace the Indian Penal Code (IPC), 1860 : Idea behind BNS



The idea behind replacing aged criminal laws including Indian Evidence Act is to:

(ii) Simplifying legal procedure so that ease of living is ensured to the common man;

(i) Strengthen law and order;

(iii) Address the technological advancement



# The Need for Bharatiya Nyaya Sanhita (BNS)



Addressing the need to revamp the outdated criminal justice system in India

Incorporating Supreme Court judgments, such as the repeal of Section 377

Removing the colonial influence on the IPC, CrPC, and Evidence Act

Introducing gender neutrality to reflect contemporary societal norms and values





## Criminal justice reforms: focus areas



**Modernization and Clarity:** Update laws to reflect contemporary norms and values, ensuring clarity and understandability



**Rehabilitation:** Emphasize rehabilitative justice and reintegration, promoting alternative sentencing for non-violent offenses



**Public Awareness and Education:** Inform citizens about their rights and responsibilities within the criminal justice system



**Victim-Centric Approach:** Strengthen provisions for victim rights and access to justice, including support systems and compensation



**Technology Integration:** Streamline legal processes with technology, improving investigation techniques and evidence collection



**Consultation and Stakeholder Involvement:** Encourage participation from stakeholders for inclusivity and diverse perspectives

# NOW BRIEF CRUX

THE BHARATIYA NYAYA SANHITA, 2023

- The Bharatiya Nyaya Sanhita, 2023 (“**BNS**”) was enacted on December 25, 2023, repealing and replacing the Indian Penal Code, 1860 (“**IPC**”) as the new penal code of the country.
- While the 5<sup>th</sup> Law Commission under the Chairpersonship of Mr. K.V.K. Sundaram had carried out an extensive review of the IPC as well as the Code of Criminal Procedure, 1898, it was only the criminal procedure code which was revamped and re-enacted as the Code of Criminal Procedure, 1973. The IPC continued as a relic of pre-independence British-era housing outdated provisions that did not align with the evolving modern rights and inclusion based discourse.

THE BHARATIYA NYAYA SANHITA, 2023  
INTRODUCTION

- The IPC has now after nearly 160 years been re-enacted with the stated objective of repealing colonial laws and “*streamlining provisions relating to offences and penalties*”.
- Amongst others, the BNS aims to give precedence to offences against women and children and offences against State.
- It introduces community service as a punishment for petty offences.
- It changes to fines and punishments for various offences.

**Total Chapter – 20**

**Total Sections – 1-358**

# NEW OFFENCES ADDED

## Section 111 & 112 BNS, 2023

# Tackling Organised Crime



Bringing organised crime under ordinary criminal law for the first time

# 1999

- Presence of special state legislations, like Maharashtra's MCOCA

Vast powers of surveillance granted to law enforcement agencies

Relaxed standards of evidence and procedure in favor of the state



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# Abetment of Offence in India



Abetment of an offence committed in India by a person outside India is now an offence under Section 48 of the BNS, 2023

Criminalizes the acts of those persons who sit outside India and conspire to commit an offence in India



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# BNS and Deceitful Promises



BNS introduces section 69 criminalizing deceitful promises to marry



Deceitful means include false promises of employment or promotion, inducement, or marrying after suppressing identity



Continue ...



# Child Employment Offence



Hiring, employing, or engaging a child to commit an offence is punishable



Section 95 of BNS 2023 specifies imprisonment of minimum seven years



Imprisonment can be extended to ten years



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# Mob Lynching



Mob lynching: Defines mob lynching and hate-crime murders. Punishment ranges from life imprisonment to death for mobs of five or more individuals committing murder based on factors like race, caste, community, language, birthplace, or personal belief



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# Section 106:Penalty

## for Causing Death by Negligence

Punishment for Negligent  
Causing of Death



Person causes death by rash or negligent act,  
not amounting to culpable homicide



Escapes from scene of incident or fails to report it to  
a Police officer or Magistrate soon after

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## New definition of 'terrorist act' in Section 113



Act with intent to threaten unity, integrity, sovereignty, security, or economic security of India



Act with intent to strike terror in people of India or any foreign country



Use of bombs, dynamite, or other explosive substances





# importation of a person from foreign country has been made gender neutral



Section 141 of the BNS, 2023 made gender neutral



Protects minor boys and girls from forced or seduced illicit intercourse





## Threat to India's sovereignty and unity



Section 152 is a new provision



Punishment for purposely or knowingly exciting secession, armed rebellion, or subversive activities



Punishment for encouraging feelings of separatist activities or endangering sovereignty, unity, and integrity of India



Imprisonment for life or up to seven years, and liable to fine



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# Amended Law on Counterfeit Currency Notes

Mere possession is  
no longer a crime



Section 242 of IPC amended and renamed as section 178 in BNS



Mere possession of forged or counterfeit currency notes or bank-notes is no longer an offence



To constitute an offence, possession of a counterfeit currency note must be accompanied by the intention to use it as genuine

Continue ...

# Snatching (Clause 304)

## Definition and Punishment



Theft is considered as "snatching" if the offender suddenly, quickly, or forcibly seizes or takes away moveable property from any person or their possession

Proposed punishment includes imprisonment for a term up to three years and a fine



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# Community Service as a Punishment for Petty Offenses



Non-appearance  
in response to  
a proclamation



Attempt  
to commit suicide



Compelling  
or restraining  
a public servant's  
lawful power



Petty theft  
on return  
of stolen money



Misconduct by  
a drunken person



Defamation



Other petty  
offenses

## **Overlap between the BNS and special laws**

## **Duplication of offences with other special laws**

- When the IPC was enacted, it encompassed all criminal offences. Over time, special laws have been enacted to address specific subjects and related offences. Some of these offences have been removed from the BNS. For example, offences related to weights and measures were incorporated in the Legal Metrology Act, 2009 and have been removed from the BNS. However, several offences continue to be retained (see Table 1 below for some illustrations). The BNS also adds certain new offences such as organized crime and terrorism which are already covered under special laws. Such overlap in laws may cause additional compliance burden and costs. It may also lead to multiple laws providing varying penalties for the same offences. Deleting such offences could remove duplication, possible inconsistencies, and multiple regulatory regimes.

## *Deletion of offences*



- The offence of attempt to commit suicide, as found under Section 309 of the IPC, has also been omitted in the BNS. This is a progressive omission that views attempt of commit suicide as a mental healthcare crisis, as opposed to a crime.
- The BNS in line with the judgment of the Supreme Court in *Navtej Singh Johar v. Union of India*, (2018) 10 SCC 1 has deleted the offence under Section 377 of IPC. This is a welcome decision in line with human dignity

## *Deletion of offences*

- The Supreme Court in *Joseph Shine v. Union of India*, (2019) 3 SCC 39, had struck down the offence of adultery, noting it to be archaic, arbitrary, and paternalistic. Despite the recommendation of the Parliamentary Standing Committee Report to re-introduce adultery in the penal code, applicable to both men and women, BNS omits adultery as an offence.

# Punishment Increased in total 32 sections under BNS 2023

<u>S.No</u>	<u>New Section and Punishment</u>	<u>Old Section with Punishment</u>
1.	8(5)- (b)- 1 year	67- (c)- six months
2.	57- seven years and with fine	117- 3 years, or with fine, or both
3.	97- shall not be less than seven years but may extend to 14 years	373- may extend to 10 years and shall also be liable to fine
4.	102- punished with death or with imprisonment for life, which shall mean the remainder of that person's natural life	303- punished with death
5.	103- a term which may extend to 10 years and with fine	304- imprisonment for life, or a term which may extend to 10 years, or fine, or both
6.	104 (1)- may extend to 7 years, and shall also be liable to fine	304A- may extend to 2 years, or with fine, or both
7.	107 (2)- punished with death or imprisonment for life, which shall mean the remainder of that person's natural life	307(2)- punished with death
8.	119 (1)- may extend to 5 years	332- which may extend to 3 years
9.	120(2)- may extend to 5 years	335- may extend to four years
10.	123(b)- may extend to 3 years	338- may extend to 2 years
11.	125(3)- may extend to 3 years	343- may extend to 2 years

Continue ...

# Punishment Increased under BNS 2023

<u>S.No</u>	<u>New Section and Punishment</u>	<u>Old Section with Punishment</u>
12.	125(4)- may extend to 5 years	344- may extend to 3 years
13.	125(6)- may extend to 3 years	346- may extend to 2 years
14.	142(1)- 10 years	370A(1)- 7 years
15.	142(2)- 7 years	370A(2)- 5 years
16.	164- 2 years	138- 6 months
17.	189(3)- 5 years	148- 3 years
18.	215- 1 year	182- 6 months
19.	239- 3 years	204- 2 years
20.	241- 3 years	206- 2 years
21.	246(a)- 5 years	211(a)- 2 years
22.	246(b)- 10 years	211(b)- 7 years
23.	274- 1 year	274- 6 months

Continue ...



# Punishment Increased under BNS 2023

<u>S.No</u>	<u>New Section and Punishment</u>	<u>Old Section with Punishment</u>
24.	277- 6 months	277- 3 months
25.	314(2)- 5 years	406- 3 years
26.	317(2)- 5 years	417- 1 year
28.	316(3)- 5 years	418- 3 years
29.	320- 3 years	423- 2 years
30.	321- 3 years	424- 2 years
31.	322(2)- 6 months	426- 3 months
32.	323- 5 years	428- 2 years

# Fine Increased in total 83 sections under BNS 2023

<u>S.No</u>	<u>New Section and Punishment</u>	<u>Old Section with Punishment</u>
1.	8(5)- (a)- 5000 rupees	67- (a)- 50 rupees
2.	8(5)- (b)- 10,000 rupees	67- (b)- 100 rupees
3.	113(2)- 10,000 rupees	323- 1000 rupees
4.	116(1)- or with fine which may extend to twenty thousand rupees	324- or with fine
5.	120(1)- 5000 rupees	334- 500 rupees
6.	120(2)- 10,000 rupees	335- 2000 rupees
7.	123- 2,500 rupees	336- 250 rupees
8.	123(a)- 5000 rupees	337- 500 rupees
9.	123(b)- 10,000 rupees	338- 1000 rupees
10.	124(2)- 5000 rupees	341- 500 rupees
11.	125(2)- 5000 rupees	342- 1000 rupees
12.	125(3)- or with fine which may extend to 10,000 rupees	343- or with fine

Continue ...

# Fine Increased under BNS 2023

<u>S.No</u>	<u>New Section and Punishment</u>	<u>Old Section with Punishment</u>
13.	125(4)- shall also be liable to fine which shall not be less than 10,000 rupees	344- shall also be liable to fine
14.	125(5)- and shall also be liable to fine	345
15.	125(6)- and shall also be liable to fine	346
16.	129- 1000 rupees	352- 500 rupees
17.	133- 5000 rupees	357- 1000 rupees
18.	134- 1000 rupees	358- 200 rupees
19.	163- 3000 rupees	137- 500 rupees
20.	166- 2000 rupees	140- 500 rupees
21.	174- 10,000 rupees	171H- 500 rupees
22.	175- 5000 rupees	171I- 500 rupees
23.	180(1)- 300 rupees	489E(1)- 100 rupees
24.	182(2)- 600 rupees	489E(2)- 200 rupees

Continue ...

# Fine Increased under BNS 2023

<u>S.No</u>	<u>New Section and Punishment</u>	<u>Old Section with Punishment</u>
25.	192(2)- 1000 rupees	160- 100 rupees
26.	193(1)- may extend to three years, or with fine which shall not be less than 25,000 rupees, or with both.	152- may extend to three years, or with fine, or with both.
27.	203- 5000 rupees	171- 200 rupees
28.	204(a)- 5000 rupees	172(a)- 500 rupees
29.	204(b)- 10,000 rupees	172(b)- 1000 rupees
30.	205(a)- 5000 rupees	173(a)- 500 rupees
31.	205(b)- 10,000 rupees	173(b)- 1,000 rupees
32.	206(a)- 5000 rupees	174(a)- 500 rupees
33.	206(b)- 10,000 rupees	174(b)- 1000 rupees
34.	208(a)- 5000 rupees	175(a)- 500 rupees
35.	208(b)- 10,000 rupees	175(b)- 1,000 rupees
36.	209(a)- 5000 rupees	176(a)- 500 rupees

Continue ...

# Fine Increased under BNS 2023

<u>S.No</u>	<u>New Section and Punishment</u>	<u>Old Section with Punishment</u>
37.	209(b)- 10,000 rupees	176(b)- 1000 rupees
38.	210(a)- 5000 rupees	177- 1000 rupees
39.	211- 5000 rupees	178- 1000 rupees
40.	212- 5000 rupees	179- 1000 rupees
41.	213- 3,000 rupees	180- 500 rupees
42.	215- 10,000 rupees	182- 1000 rupees
43.	216- 10,000 rupees	183- 1000 rupees
44.	217- 5,000 rupees	184- 500 rupees
45.	219- 2,500 rupees	186- 500 rupees
46.	220(a)- 2,500 rupees	187(a)- 200 rupees
47.	220(b)- 5,000 rupees	187(b)- 500 rupees
48.	221(a)- 2,500 rupees	188(a)- 200 rupees

Continue ...

# Fine Increased under BNS 2023

<u>S.No</u>	<u>New Section and Punishment</u>	<u>Old Section with Punishment</u>
49.	221(b)- 5,000 rupees	188(b)- 1000 rupees
50.	227(1)- liable to fine which may extend to 10,000 rupees	193(1)- liable to fine
51.	227(2)- liable to fine which may extend to 5,000 rupees	193(2)- liable to fine
52.	228(1)- liable to fine which may extend to 50,000 rupees	194(1)- liable to fine
56.	246- or with fine which may extend to two lakh rupees	211- or with fine
57.	265- 5000 rupees	228- 1000 rupees
58.	272- 5000 rupees	272- 1000 rupees
59.	273- 5000 rupees	273- 1000 rupees
60.	274- 5000 rupees	274- 1000 rupees
61.	275- 5000 rupees	275- 1000 rupees
62.	276- 5000 rupees	276- 1000 rupees
63.	277- 5000 rupees	277- 500 rupees

Continue ...

# Fine Increased under BNS 2023

<u>S.No</u>	<u>New Section and Punishment</u>	<u>Old Section with Punishment</u>
64.	278- 1000 rupees	278- 500 rupees
65.	280- 10,000 rupees	280- 1000 rupees
66.	281- and with fine which shall not be less than 10,000 rupees, or with both	281- or with fine
67.	282- 5,000 rupees	282- 1000 rupees
68.	283- 5000 rupees	283- 200 rupees
69.	284- 5,000 rupees	284- 1000 rupees
70.	285- 2,000 rupees	285- 1000 rupees
71.	286- 5,000 rupees	286- 1000 rupees
72.	287- 5,000 rupees	287- 1000 rupees
73.	288- 5,000 rupees	288- 1000 rupees
74.	289- 5,000 rupees	289- 1000 rupees
75.	290- 1,000 rupees	290- 200 rupees

Continue ...

# Fine Increased under BNS 2023

<b>S.No</b>	<b><u>New Section and Punishment</u></b>	<b><u>Old Section with Punishment</u></b>
76.	291- or with fine which may extend to 5000 rupees	291- or with fine
77.	292(2)- 5000 rupees	292(2)- 2000 rupees
78.	292(2)- 10,000 rupees (second time)	292(2)- 5000 rupees (second time)
79.	294- or with fine which may extend to 1000 rupees	294- or with fine
80.	295(2)- 5000 rupees	294A- 1000 rupees
81.	327(3)- 5000 rupees	447- 500 rupees
82.	327(4)- 5000 rupees	448- 1000 rupees
83.	353- 1000 rupees	510- 10 rupees



# Mandatory Minimum Punishment Introduced in total 23 sections under BNS 2023

<u>S.No</u>	<u>Section number</u>
1.	S. 97- Buying Child for Purposes of Prostitution, etc.
2.	S. 103- Punishment For Culpable Homicide Not Amounting to Murder.
3.	S. 109(2)(b)- Organized Crime.
4.	S. 109(3)- Abetting, attempting etc. of an Organized Crime.
5.	S. 109(4)- Being a member of Organized Crime.
6.	S. 109(5)- Harboring a member of Organized Crime.
7.	S. 109(6)- Possessing property derived from Organized Crime.
8.	S. 109(7)- Possession of property on behalf of member of Organized Crime.
9.	S. 109(2)- Petty Organized Crime
10.	S. 111(2)(b)- Terrorist Act.
11.	S. 111(3)- Abetting, attempting etc. of Terrorist Act.
12.	S. 111(4)- Organizing a camp for Terrorist Act.

Continue ...

# Mandatory Minimum Punishment Introduced under BNS 2023

<u>S.No</u>	<u>Section number</u>
13.	S. 111(6)- Harboring any person who has committed any terrorist Act.
14.	S. 115(3)- Voluntarily Causing Grievous Hurt resulting in permanent vegetative state
15.	S. 116(2)- Voluntarily Causing Hurt or Grievous Hurt by Dangerous Weapons or Means.
16.	S. 119(2)- Voluntarily Causing Hurt or Grievous Hurt to Deter Public Servant from His Duty.
17.	S. 137(1)- Kidnapping or Maiming a Child for Purposes of Begging.
18.	S. 137(2)- Kidnapping or Maiming a Child for Purposes of Begging.
19.	S. 202- Personating A Public Servant
20.	S. 301(2)- Theft.
21.	308(3)- Dacoity.
22.	312- Dishonest Misappropriation of Property
23.	318- Dishonest or Fraudulent Removal or Concealment of Property to Prevent Distribution Among Creditors

# CONCLUSION

- The proposed changes in Indian criminal law with the introduction of the Bharatiya Nyaya Sanhita 2023, mark a step forward toward a modernized legal framework. It not only amends existing IPC law but also introduces various new provisions that may improve efficiency, fairness, and transparency in the legal process.
- Only the enforcement of this law will not help to protect the rights of Indian citizens but also careful implementation and continuous monitoring will.
- As a whole, the BNS of 2023 is a comprehensive legal framework that is in tune with society's evolving needs and commitment to justice.
- 1<sup>st</sup> July, 2024, is appointed for implementation of BNS, 2023.

THANKS