

Paper presentation by
P.Tirumala Rao,
III Addl. Chief Judl. Magistrate,
Vijayawada.

CHANGES IN BHARATIYA NYAYA SANHITA (BNS)

INTERPLAY BETWEEN THE INDIAN PENAL CODE (IPC) AND BHARATIYA NYAYA SANHITA (BNS), WITH FOCUS ON NEW OFFENCES CREATED AND THE OFFENCES DELETED FROM THE STATUTE BOOK.

INTRODUCTION :

In the beginning of human civilization, human beings fought with each other for food and existence. In those days *Private Vengeance* was developed. After development of *Culture and Civilization*, *Administration of Criminal Justice* was substituted the private vengeance. Until the Britishers established their reign in India, the *Hindu Sastric Civil and Criminal Laws* by way of *Customs* and personal laws were prevailing throughout the country. Prior to the year 1860, various laws were being implemented area-wise ie., different laws for Presidencies and Mofussils.

INDIAN PENAL CODE :

The First Law Commission which was established in the year 1833 under the Presidentship of **Lord Macaulay**, recommended to enact a single criminal Act for entire India. The drafting of several Acts including Indian Penal Code was entrusted to the First Law Commission. The draft of Indian Penal Code was submitted to the Government on 02-05-1837, assented on 06.10.1860 and came into force w.e.f 01-01-1862.

The main moto in bringing this enactment is to punish the offenders/wrong-doers, so as to prevent them to repeat the crimes. When a criminal is punished, the other people of the society also afraid to commit offences and peace prevails in the society.

IPC extends to the whole of India except the State of Jammu and Kashmir.

It consists of 23 (XXIII) Chapters.

There are 511 Sections in IPC.

Indian Penal Code had been in existence from 01-01-1862 to 30-06-2024 ie., for 162½ years.

BHARATIYA NYAYA SANHITA :

In order to De-colonize the British Regime Act, to rationalize the punishment, to promote victim-centric justice and also to address the emerging crimes in the Artificial Intelligence era, Bharatiya Nyaya Sanhita, 2023 was brought by the Government of India by repealing the Indian Penal Code, 1860. Bharatiya Nyaya Sanhita came into force w.e.f 01-07-2024. The said replacement of new Act is a major reform in criminal laws since 1860.

BNS extends to the whole of India (Government of India revoked Article 370 of the Constitution removing the Special Status to Jammu & Kashmir).

It consists of 20 (XX) Chapters including REPEAL AND SAVINGS.

There are 358 Sections in BNS.

Even-after replacement of IPC with BNS, it does not discard the entire framework. Most of the offences in IPC are continuing in BNS, but by re-organizing the Sections.

GENERAL EXPLANATIONS.

Secs.8 to 52-A in Chapter II of **IPC** provide General Explanations.

Secs.2(1) to 2(38) in Chapter I of **BNS** provide Definitions and General Explanations.

The following General Explanations are **deleted** :

- 1) **Sec.13** : *Queen (Omitted earlier).*
- 2) **Sec.15** : *British India (Omitted earlier).*
- 3) **Sec.16** : *Government of India (Omitted earlier).*
- 4) **Sec.18** : *India.*
- 5) **Sec.50** : *Section.*

The following definition is **added** in BNS :

Sec.2(3) : *CHILD* : Any person below the age of 18 years.

In the definition of Gender u/Sec.2(10) of BNS (Sec.8 of IPC), the word '**TRANSGENDER**' is added besides male and female.

Sec.10 of IPC defines both Man and Woman, whereas, in BNS, both Man and Woman are defined separately under Secs.2(19) and 2(35) respectively.

Similarly, Sec.33 of IPC defines both act and omission, whereas, in BNS, both act and omission are defined separately under Secs.2(1) and 2(25) respectively.

The word **Justice** was deleted in the definition of Court of Justice.

of PUNISHMENTS

Secs.53 to 75 in Chapter III of **IPC** provide Punishments

Secs.4 to 13 in Chapter II of **BNS** provide Punishments.

The following Sections of Punishments are **deleted** :

- 1) **Sec.53-A** : *Construction of reference to transportation.*
- 2) **Sec.56** : *Sentence of Europeans and Americans to penal servitude, proviso as to sentence for term exceeding ten years, but not for life (Omitted earlier).*
- 3) **Sec.58** : *Offenders sentenced to transportation how dealt with until transported (Omitted earlier).*
- 4) **Sec.59** : *Transportation instead of imprisonment (Omitted earlier).*
- 5) **Sec.61** : *Sentence of forfeiture of property (Omitted earlier).*
- 6) **Sec.62** : *Forfeiture of property, in respect of offenders punishable with death, transportation or imprisonment (Omitted earlier).*

The following Section is **added** in BNS :

Sec.4(f) : COMMUNITY SERVICE.

Community Service is provided for 6 petty offences. They are Public Servant unlawfully engaging in trade (Sec.202), Non-appearance in response to a proclamation u/Sec.84 of BNSS (Sec.209), attempt to commit suicide to compel or restraint exercise of lawful power (Sec.226), petty theft on return of theft money {Sec.303(2)}, misconduct in public by a drunken person (Sec.355) and defamation {356(2) of BNS}.

In case of failure of doing Community Service, the accused has to suffer sentence of any description to which the offender might have been sentenced for the offence as per **Sec.8(4)** of BNS.

Regarding the Community Service, the questions arise are :

- a) Nature of service (Is it to the discretion of the Court basing on the nature of offence and status/state of the accused);
- b) Period of Service;
- c) On whom the responsibility of supervision is to be kept (Is it Police or the concerned person of the place at which the Community Service is to be done).

GENERAL EXCEPTIONS.

(including Right of Private Defence)

Secs.76 to 106 in Chapter IV of **IPC** provide General Exceptions

Whereas, Secs.14 to 44 in Chapter III of **BNS** provide General Exceptions.

There are no major changes, additions and deletions of Sections in this Chapter except terminology.

Of ABETMENT, CRIMINAL CONSPIRACY AND ATTEMPT.

Secs.107 to 120 in Chapter V of **IPC** provide ABETMENT, while Sections 120-A and 120-B in Chapter V-A provide CONSPIRACY and Sec.511 in Chapter XXIII provide PUNISHMENT FOR ATTEMPT TO COMMIT OFFENCE.

In **BNS**, all the said three chapters are brought together and provided under Secs.45 to 62 in Chapter IV.

There are no major changes, except terminology and **adding** of Sec.48 in BNS.

Sec.48 : ABETMENT OUTSIDE INDIA FOR THE OFFENCE IN INDIA :

A person abets an offence within the meaning of BNS who, without and beyond India, abets abets the commission any act in India which would constitute an offence if committed in India.

Of OFFENCES AGAINST STATE.

Secs.121 to 130 in Chapter VI of **IPC** provide Offences against State.

Secs.147 to 158 in Chapter VII of **BNS** provide Offences against State.

The following Section is **deleted** :

Sec.124-A : *Sedition.*

The reasons for deletion of Sedition are it contradicts Article 19(1)(a) as well as Article 14 of the Constitution which guarantees freedom of speech; it was being misused and invoked against journalists, activists and political opponents, etc as harassment too.

In the year 2022, the Hon'ble Supreme Court of India in its decision in a case between **S.G.Vombatkere .Vs. Union of India**, put this Section on hold, directing no new FIRs to be registered under it and also keeping in abeyance of all pending trials, appeals, and proceedings related to Sec.124A of IPC.

The following Section is **added** in BNS :

Sec.152 : *Acts endangering sovereignty, unity and integrity of India :*

Whoever, purposefully or knowingly, by words, either spoken or written, or by signs, or by visible representation, or by electronic communication or by use of financial mean, or otherwise, excites or attempts to excite, secession or armed rebellion or subversive activities, or encourages feelings of separatist activities or endangers sovereignty or unity and integrity of India; or indulges in or commits any such act shall be punished with imprisonment for life or

with imprisonment which may extend to seven years and shall also be liable to fine.

Explanation : Comments expressing disapprobation of the measures, or administrative or other action of the Government with a view to obtain their alteration by lawful means without exciting or attempting to excite the activities referred to in this section do not constitute an offence under this Section.

This Section is added with some changes to Sec.124-A of IPC.

Of OFFENCES RELATING TO THE ARMY, NAVY AND AIR FORCE.

Secs.131 to 140 in Chapter VII of **IPC** provide Offences relating to Army, Navy and Air Force.

Secs.159 to 168 in Chapter VIII of **BNS** provide Offences relating to Army, Navy and Air Force.

There are no changes, additions and deletions of Sections in this Chapter.

Of OFFENCES AGAINST THE PUBLIC TRANQUILITY.

Secs.141 to 160 in Chapter VIII of **IPC** provide Offences against the Public Tranquility.

Secs.189 to 197 in Chapter XI of **BNS** provide Offences against the Public Tranquility.

The following Section is **deleted** :

Sec.153-AA : *Punishment for knowingly carrying arms in any procession or organizing, or holding or taking part in any mass drill or mass training with arms.*

The following Sections are **added** in BNS :

Sec.195(2) : (1)*Assaulting or obstructing public servant when suppressing riot, etc.*

Whoever threatens to assault or attempts to obstruct any public servant or threaten or attempts to use criminal force to any public servant in the discharge of his duty in endeavouring to disperse an unlawful assembly, or to suppress a riot or affray, shall be punished with imprisonment of either description for a term which may extend to one year, or with fine, or with both.

Sec.197(1)(d) : *Imputations, assertions prejudicial to national integration-*

makes or publishes false or misleading information jeopardizing the sovereignty, unity and integrity or security of India, shall be punished with imprisonment which may extend to three years, or with fine, or with both.

Of OFFENCES BY OR RELATING TO PUBLIC SERVANTS.

Secs.166 to 171 in Chapter IX of **IPC** provide Offences by or relating to Public Servants. (Secs.161 to 165-A are omitted earlier).

Secs.198 to 205 in Chapter XII of **BNS** provide Offences by or relating to Public Servants.

There are no changes, additions and deletions in this Chapter.

Of OFFENCES RELATING TO ELECTIONS.

Secs.171-A to 171-I in Chapter IX-A of **IPC** provide Offences relating to Elections.

Secs.169 to 177 in Chapter IX of **BNS** provide Offences relating to Elections.

There are no changes, additions and deletions in this Chapter.

Of CONTEMPTS OF THE LAWFUL AUTHORITY OF PUBLIC SERVANTS.

Secs.172 to 190 in Chapter X of **IPC** provide Offences relating to Contempts of the Lawful Authority of Public Servants.

Secs.206 to 226 in Chapter XIII of **BNS** provide Offences relating to Contempts of the Lawful Authority of Public Servants.

The following Section is **added** in BNS :

Sec.226 : *Attempt to commit suicide to compel or restrain exercise of lawful power.*

Whoever attempts to commit suicide with the intent to compel or restrain any public servant from discharging his official duty shall be punished with Simple Imprisonment for a term which may extend to one year or with fine or with both or with community service.

Of FALSE EVIDENCE AND OFFENCES AGAINST PUBLIC JUSTICE.

Secs.191 to 229-A in Chapter X of **IPC** provide Offences relating to Contempts of the Lawful Authority of Public Servants.

Secs.227 to 269 in Chapter XIII of **BNS** provide Offences relating to Contempts of the Lawful Authority of Public Servants.

There are no additions and deletions in this Chapter.

Of OFFENCES RELATING TO COIN AND GOVERNMENT STAMPS.

Secs.230 to 263-A in Chapter XII of **IPC** provide Offences relating to Coin and Government Stamps.

Secs.178 to 188 in Chapter X of **BNS** provide Offences relating to Coin, Currency-notes, Bank-notes and Government Stamps.

‘CURRENCY-NOTES & BANK-NOTES’ are included in **BNS**.

The following Sections are **deleted** :

Sec.236 : *Abetting in India the counterfeiting out of India of coin.*

Sec.237 : *Import or export of counterfeit coin.*

Sec.238 : *Import or export of counterfeits of Indian coin.*

OF OFFENCES RELATING TO WEIGHTS AND MEASURES.

Secs.230 to 263-A in Chapter XIII of IPC provide Offences relating to Weights and Measures.

The *entire Chapter was deleted/repealed* in BNS.

OF OFFENCES AFFECTING THE PUBLIC HEALTH, SAFETY, CONVENIENCE, DECENCY AND MORALS.

Secs.268 to 294-A in Chapter XIV of **IPC** provide Offences affecting the Public Health, Safety, Convenience, Decency and Morals.

Secs.270 to 297 in Chapter XV of **BNS** provide Offences affecting the Public Health, Safety, Convenience, Decency and Morals.

There are no additions and deletions in this Chapter.

However, the word ‘**young person**’ in Sec.293 of IPC is replaced with the word ‘**child**’ in Sec.295 of BNS.

OF OFFENCES RELATING TO RELIGION.

Secs.295 to 298 in Chapter XV of **IPC** provide Offences relating to Religion.

Secs.298 to 302 in Chapter XVI of **BNS** provide Offences relating to Religion.

There are no additions and deletions of Sections in this Chapter.

Of OFFENCES AFFECTING THE HUMAN BODY.

Secs.299 to 377 in Chapter XVI of **IPC** provide Offences Affecting the Human Body.

This Chapter in **IPC** consists of

- a) Offences against Life (Secs.299 & 300);*
- b) When Culpable Homicide is not Murder (Secs.301 to 311);*
- c) of the Causing of Miscarriage, of Injuries to Unborn Children, of the Exposure of Infants, and of the concealment of births (Secs.312 to 318);*
- d) of Hurt (Secs.319 to 338);*
- e) of Wrongful Restraint and Wrongful Confinement (Secs.339 to 358);*
- f) of Kidnapping, Abduction, Slavery and Forced Labour (Secs.359 to 374);*
- g) Sexual Offences (Secs.375 to 376E); and Unnatural Offences (Sec.377).*

Secs.63 to 99 in Chapter V of **BNS** provide the **Offences against Woman and Child**, while Secs.100 to 146 in Chapter VI provided **Offences Affecting the Human Body**.

Chapter XX (Secs.493 to 498) – of **Offences relating to Marriage**; and Chapter XX-A (Sec.498-A) – of **Cruelty by Husband or Relatives of Husband**, provided in IPC are included in Chapter V of **BNS**.

Chapter V in **BNS** (*of Offences against Woman and Child*) consists of

- a) *Of Sexual Offences* (Secs.63 to 73);
- b) *Of Criminal Force and Assault against Woman* (Secs.74 to 79);
- c) *Of Offences relating to Marriage* (Secs.80 to 87);
- d) *of Causing Miscarriage, etc.* (Secs.88 to 92);
- e) *Of Offences against Child* (Secs.93 to 99).

Chapter VI in **BNS** (*of Offences Affecting the Human Body*) consists of

- a) *Of Offences Affecting Life* (Secs.100 to 113);
- b) *Of Hurt* (Secs.114 to 125);
- c) *of Wrongful Restraint and Wrongful Confinement* (Secs.126 & 127);
- d) *Of Criminal Force and Assault* (Secs.128 to 136);
- e) *of Kidnapping, Abduction, Slavery and Forced Labour* (Secs.137 to 146);

The following Sections are **deleted** :

Sec.309 : *Attempt to Commit Suicide.*

Basing on the recommendation of Law Commission of India in its 210th Report, Sec.309 of IPC is removed. The reason for such recommendation is it is inhumane to punish the individuals already suffering from mental distress/ depression and attempted to commit suicide.

However, a new limited provision **u/Sec.226 in BNS** is introduced ie., '*Attempt to Commit Suicide to Compel or Restrain Exercise of Lawful Power*'.

Sec.310 : *Thug.*

Sec.311 : *Punishment (for Thug).*

Sec.377 : *Unnatural Offences.*

As per the decision of Hon'ble Supreme Court of India in **Navtej Singh Johar .Vs. Union of India**, Sec.377 of IPC was decriminalized as it violated the Article 14 - fundamental rights to equality; Article 15 - Discrimination; and Article 21 - Dignity and Privacy. As per the observation of the Hon'ble Apex Court, this Section is unconstitutional to the extent of consensual acts.

The Hon'ble Apex Court observed that this provision is unconstitutional in respect of consensual acts, but the entire provision was deleted without adding new provision regarding the non-consensual acts and also acts against animals.

The following Sections are **added** in BNS :

Sec.69 : *Sexual Intercourse by playing deceitful means, etc. :*

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, such sexual intercourse not amounting to the offence of rape, shall be punished with imprisonment of either description for a term which may extend to ten years and shall also be liable to fine.

Explanation : 'deceitful means' shall include the false promise of employment or promotion, inducement or marrying after suppressing identity.

This Section is included in BNS as per several decisions of Hon'ble Constitutional Courts. In the case between **Deepak Gulati .vs. State of Haryana** it was observed that 'A false promise made with no intention to marry, and had sexual intercourse; The promise was false from inception; It was a mere tool to obtain consent for sexual intercourse; and It amounts to rape.

Sec.95 : *Hiring, employing or engaging a child to commit an offence :*

Whoever hires, employs or engages any child to commit an offence shall be punished with imprisonment of either description which shall not be less than three years but which may extend ten years, and with fine; and if the offence

be committed shall also be punished with the punishment provided for that offence as if the offence has been committed by such person himself.

Explanation : Hiring, employing, engaging or using a child for sexual exploitation or pornography is covered within the meaning of this section.

Sec.103(2) : *(Punishment for Murder) :*

When a group of five or more persons acting in concert commits murder on the ground of race, caste or community, sex, place of birth, language, personal belief or any other ground each member of such group shall be punished with death or imprisonment for life or imprisonment for a term which shall not be less than seven years, and shall also be liable to fine. (Mob Lynching).

Sec.106(1) : *Causing death by negligence.*

In addition to regular Sec.304-A of IPC, the addition in BNS is : if such act is done by a Registered Medical Practitioner, while performing medical procedure, he shall be punished with imprisonment of either description for a term which may extend to two years, and shall also be liable to fine.

Sec.106(2) : *(Causing death by negligence) :*

Whoever causes death of any person by rash and negligent driving of vehicle not amounting to culpable homicide, and escapes without reporting it to a Police Officer or a Magistrate soon after the incident, shall be punished with imprisonment of either description of a term which may extend to ten years, and shall also be liable to fine. (Sec.304-A of IPC)

This hit-and-run provision was withheld/kept in abeyance by the Indian Government following the widespread protests from the Transport Unions.

Sec.111 : *Organised Crime.*

(1) Any continuing unlawful activity including kidnapping, robbery, vehicle theft, extortion, land grabbing, contract killing, economic offence, cyber-crimes, trafficking of persons, drugs, weapons or illicit goods or services, human trafficking for prostitution or ransom, by any person or a group of persons acting in concert, singly or jointly, either as a member of an organised crime syndicate or on behalf of such syndicate, by use of violence, threat of violence, intimidation, coercion, or by any other unlawful means to obtain direct or indirect material benefit including a financial benefit, shall constitute organised crime.

Explanation : (i) 'Organised crime syndicate' – means a group of two or more persons who, acting either singly or jointly, as a syndicate or gang indulge in any continuing unlawful activity.

(ii) 'Continuing unlawful activity' – means an activity prohibited by law which is cognizable offence punishable with imprisonment of three years or more, undertaken by any person, either singly or jointly, as a member of an organised crime syndicate or on behalf of such syndicate in respect of which more than one charge-sheets have been filed before a competent Court within the preceding period of ten years and that Court has taken cognizance of such offence, and includes economic offence;

(iii) 'economic offence' includes criminal breach of trust, forgery, counterfeiting of currency notes, bank notes and Government stamps, hawala transaction, mass- marketing fraud or running any scheme to defraud several persons or doing any act in any manner with a view to defraud any bank or financial institution or any other institution or organisation for obtaining monetary benefits in any form.

(2) Whoever commits organised crime shall, --

(a) if such offence has resulted in the death of any person, be punished with death or imprisonment for life, and shall also be liable to fine which shall not be less than ten lakh rupees;

(b) in any other case, be punished with imprisonment for a term which shall not be less than five years but which may extend to imprisonment for life, and shall also be liable to fine which shall not be less than five lakh rupees.

(3) Whoever abets, attempts, conspires or knowingly facilitates the commission of an organised crime, or otherwise engages in any act preparatory to an organised crime, shall punished with imprisonment for a term which shall not be less than five years but which may extend to imprisonment for life, and shall also be liable to fine which shall not be less than five lakh rupees.

(4) Any person who is a member of an organised crime syndicate shall be punished with imprisonment for a term which shall not be less than five years but which may extend to imprisonment for life, and shall also be liable to fine which shall not be less than five lakh rupees.

(5) Whoever, intentionally, harbours or conceals any person who had committed the offence of organised crime shall be punished with imprisonment for a term which shall not be less than three years but which may extend to imprisonment for life, and shall also be liable to fine which shall not be less than five lakh rupees.

Provided that this sub-section shall not apply to any case in which the harbour or concealment is by the spouse of the offender.

(6) Whoever possesses any property derived or obtained from the commission of an organised crime or proceeds of any organised crime or which has been acquired through the organised crime, shall be punishable with imprisonment for a term which shall not be less than three years but

which may extend to imprisonment for life and shall also be liable to fine which shall not be less than two lakh rupees.

(7) If any person on behalf of a member of an organised crime syndicate is, or at any time has been in possession of movable or immovable property which he cannot satisfactorily account for, shall be punishable with imprisonment for a term which shall not be less than three years but which may extend to imprisonment for ten years and shall also be liable to fine which shall not be less than one lakh rupees.

As per the decision of Hon'ble High Court of Kerala in a case between '**Muhammad Rasheed .vs. State of Kerala (2024)**', to attract the offence u/Sec.111 BNS, there must be two or more persons in the syndicate and more than one Charge-sheet is filed within the preceding 10 years and the Court has taken cognizance of such offence.

Sec.112 : *Petty Organised Crime :*

(1) Whoever, being member of a group or gang, either singly or jointly, commits any act of theft, snatching, cheating, unauthorised selling of tickets, unauthorised betting or gambling, selling of public examination question papers or any other similar criminal act, is said to commit petty organised crime.

Explanation : For the purpose of this sub-section 'theft' includes trick theft, theft from vehicle, dwelling house or business premises, cargo theft, pick pocketing, theft through card skimming, shoplifting and theft of Automated Teller Machine.

(2) Whoever commits any petty organised crime shall be punished with imprisonment for a term which shall not be less than one year but which may extend to seven years, and shall also be liable to fine.

Sec.113 : *Terrorist act.*

(1) Whoever does any act with the intent to threaten or likely to threaten the unity, integrity, sovereignty, security, or economic security of India or with the intent to strike terror or likely to strike terror in the people or any section of the people in India or in any foreign country,--

(a) by using bombs, dynamite or other explosive substance or inflammable substance or firearms or other lethal weapons or poisonous or noxious gases or other chemicals or by any other substance (whether biological, radioactive, nuclear or otherwise) or a hazardous nature or by any other means of whatever nature to cause or likely to cause,--

- (i) death of, or injury to, any person or persons; or
- (ii) loss of, or damage to, or destruction of, property; or
- (iii) disruption of any supplies or services essential to the life of the community in India or in any foreign country; or
- (iv) damage to, the monetary stability of India by way of production or smuggling or circulation of counterfeit Indian paper currency, coin or of any other material; or
- (v) damage to destruction of any property in India or in a foreign country used or intended to be used for the defence of India or in connection with any other purposes of the Government of India, any State Government or any of their agencies; or

(b) overawes by means of criminal force or the show of criminal force or attempts to do so or causes death of any public functionary or attempts to cause death of any public functionary; or

(c) detains, kidnaps or abducts any person and threatening to kill or injure such person or does any other act in order to compel the Government of India, any State Government or the Government of a foreign country or an international or inter-governmental organisation or any other person to do or abstain from doing any act, commit a terrorist act.

Explanation, -- For the purpose of this sub-section, --

(a) 'public functionary' means the constitutional authorities or any other functionary notified in the Official Gazette by the Central Government as public functionary;

(b) 'counterfeit Indian currency' means the counterfeit currency as may be declared after examination by an authorised or notified forensic authority that such currency imitates or compromises with the key security features of Indian currency.

(2) Whoever commits a terrorist act shall,--

(a) if such offence has resulted in the death of any person, be punished with death or imprisonment for life, and shall also be liable to fine;

(b) in any other case, be punished with imprisonment for a term which shall not be less than five years but which may extend to imprisonment for life, and shall also be liable to fine.

(3) Whoever conspires or attempts to commit, or advocates, abets, advises or incites, directly or knowingly facilitates the commission of a terrorist act or any act preparatory to the commission of a terrorist act, shall be punished with imprisonment for a term which shall not be less than five years but which may extend to imprisonment for life, and shall also be liable to fine.

(4) Whoever organises or causes to be organised any camp or camps for imparting training in terrorist act, or recruits or causes to be recruited any person or persons for commission of a terrorist act, shall be punished with imprisonment for a term which shall not be less than five years but which may extend to imprisonment for life, and shall also be liable to fine.

(5) Any person who is a member of an organisation which is involved in terrorist act, shall be punished with imprisonment for a term which may extend to imprisonment for life, and shall also be liable to fine.

(6) Whoever voluntarily harbours or conceals, or attempts to harbour or conceal any person knowing that such person has committed a terrorist act shall be punished with imprisonment for a term which shall not be less than three years but which may extend to imprisonment for life, and shall also be liable to fine:

Provided that this sub-section shall not apply to any case in which the harbour or concealment is by the spouse of the offender.

(7) Whoever knowingly possesses any property derived or obtained from commission of any terrorist act or acquired through the commission of any terrorist act shall be punished with imprisonment for a term which may extend to imprisonment for life, and shall also be liable to fine.

Explanation : For the removal of doubts, it is hereby declared that the officer not below the rank of Superintendent of Police shall decide whether to register the case under this Section or under the Unlawful Activities (Prevention) Act, 1967 (UAPA).

In case, the Superintendent of Police decides to register the case under BNS, PRC Cases procedure is to be followed ie.,

- a) The case is to be dealt by the Magistrate Court, but not Special Court.
- b) In case Police Report/Charge-sheet is not filed within 90 days, Statutory bail is to be granted to the Terrorist/Moist.
- c) PRC Number is to be given and the case is to be committed to the Sessions Court.

Sec.117(3) : (*Voluntarily causing grievous hurt*) :

(3) Whoever commits an offence under sub-section (1) and in the course of such commission causes any hurt to a person which causes that person to be in permanent disability or in persistent vegetative state, shall be punished with rigorous imprisonment for a term which shall not be less than ten years but which may extend to imprisonment for life, which shall mean imprisonment for the remainder of that person's natural life.

Sec.117(4) : When grievous hurt of a person is caused by a group of five or more persons on the ground of his, race, caste, sex, place of birth, language, personal belief or any other ground, each member of such group shall be guilty of the offence of causing grievous hurt, and shall be punished with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine.

****** As per the offence of Punishment for in certain cases – the age limit of woman is given in addition. (Sec.376A of IPC).

Sec.65(1) of BNS : Rape on a woman **under sixteen years of age**;

Sec.65(2) of BNS : Rape on a woman **under twelve years of age**;

However, the punishment of imprisonment not less than twenty years, but which may extend to imprisonment for life is one and the same for Secs.65(1) & (2).

****** In respect of grievous hurt with dangerous weapons (S.326 of IPC), number of days provided for the sufferer in severe bodily pains is reduced to 15 days from 20 days in **Sec.116 of BNS**.

****** The Hon'ble Supreme Court of India declared that the provision u/Sec.303 of IPC (Punishment for murder by life convict) is unconstitutional as per the decision in a case between **Mithu .vs. State of Punjab**. However, the said provision **u/Sec.104 of BNS**.

****** The punishment for the offence of Kidnapping or maiming a minor for purposes of begging under **Sec.139(1) of BNS** (Sec.363A) is Rigorous Imprisonment for a term which shall not less than ten years, but which may extend to imprisonment life. Whereas, as per Schedule-I of BNSS, this provision is to be tried by the Magistrate of I Class who is empowered to impose imprisonment of not exceeding three years only.

****** In this Section **139(4)**, the definition of minor (i) male means person under sixteen years of age; (ii) female means person under eighteen years of age is **deleted**.

****** The word **Minor Girl** in Sec.366A of IPC – Procuration of minor girl is changed to **any child**

****** In this Chapter, wherever the word **minor** occurs, it is changed to **child**.

Of OFFENCES AGAINST PROPERTY

Secs.378 to 462 in Chapter XVII of **IPC** provide Offences Against Property.

This Chapter in **IPC** consists of

- a) *Of Theft* (Secs.378 & 382);
- b) *Of Extortion* (Secs.383 to 389);
- c) *Of Robbery and Dacoity* (Secs.390 to 404);
- d) *Of Criminal Misappropriation of Property* (Secs.403 & 404);
- e) *Of Criminal Breach of Trust* (Secs.405 to 409);
- f) *Of the Receiving of Stolen Property* (Secs.410 to 414);
- g) *Of Cheating* (Secs.415 to 420);
- h) *Of Fraudulent Deeds and Dispositions of Property* (Ss.421 to 424);

- i) Of Mischief (Secs.425 to 440);
- j) Of Criminal Trespass (Secs.441 to 462).

Secs.303 to 334 in Chapter XVII of **BNS** provide Offences Against Property.

This Chapter in **BNS** consists of

- a) *Of Theft* (Secs.303 to 307);
- b) *Of Extortion* (Secs.308);
- c) *Of Robbery and Dacoity* (Secs.309 to 313);
- d) *Of Criminal Misappropriation of Property* (Secs.314 & 315);
- e) *Of Criminal Breach of Trust* (Sec.316);
- f) *Of the Receiving of Stolen Property* (Sec.317);
- g) *Of Cheating* (Secs.318 and 319);
- h) *Of Fraudulent Deeds and Dispositions of Property* (Ss.320 to 323);
- i) *Of Mischief* (Secs.324 to 328);
- j) *Of Criminal Trespass* (Secs.329 to 334).

The following Sections are **deleted** :

Sec.444 : *Lurking house-trespass by night.*

Sec.446 : *House-breaking by night.*

The following Sections are **added** in BNS :

Sec.303(2) : (*Theft*) -

Theft in case of second or subsequent conviction of any person under this Section, he shall be punished with rigorous imprisonment for a term which

shall not be less than one year, but which may extend to five years and with fine;

provided that in cases of theft where the value of stolen property is less than Rs.5000/- and a person is convicted for the first time, shall upon return of the value of property or restoration of stolen property, shall be punished with Community Service.

Sec.304 : *Snatching.*

(1) Theft is snatching if, 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 movable property.

(2) Whoever commits snatching, shall be punished with imprisonment of either description for a term which may extend to three years, and shall also be liable to fine.

Sec.324(3) : *(Mischief) :*

Whoever commits mischief and thereby causes loss or damage to any property including the property of Government or Local Authority shall be punished with imprisonment of either description for a term which may extend to one year, or with fine, or with both.

As per **Sec.324(4) of BNS**, where the loss or damage caused by Mischief to the amount of Rs.20,000/- and more, but less than Rs.one lakh, the imprisonment is either description for a term which may extend to two years, or with fine, or with both.

As per **Sec.324(5) of BNS**, where the loss or damage caused by Mischief to the amount of Rs.One lakh or upword, the imprisonment is either description for a term which may extend to five years, or with fine, or with both.

Of OFFENCES RELATING TO DOCUMENTS AND TO PROPERTY MARKS

Secs.463 to 489E in Chapter XVIII of **IPC** provide Offences relating to Documents and to Property Marks.

This Chapter in **IPC** consists of

- a) Of Offences Relating to documents (Secs.463 to 477-A);
- b) Of Property and other Marks (Secs.478 to 489);
- c) Of Currency-Notes and Bank-Notes (Secs.489-A to 489-E).

Secs.335 to 350 in Chapter XVIII of **BNS** provide Offences relating to Documents and to Property Marks.

This Chapter in **BNS** consists of

- a) Of Offences Relating to documents (Secs.335 to 344);
- b) Of Property Marks (Secs.345 to 350).

There are **no deletion** of Sections in this Chapter.

The following Sections are **added** in BNS :

Sec.341(3) : (341 : Making or Possessing Counterfeit Seal, etc., with intent to commit forgery punishable under Sec.338)

(3) Whoever possesses any seal, plate or other instrument knowing the same to be counterfeit, shall be punished with imprisonment of either description for a term which may extend to three years, and shall also be liable to fine.

Sec.341(4) : Whoever fraudulently or dishonestly uses as genuine any seal, plate or other instrument knowing or having reason to believe the same to be counterfeit, shall be punished in the same manner as if he had made or counterfeited such seal, plate or other instrument.

Of the CRIMINAL BREACH OF CONTRACTS OF SERVICE.

Secs.490 to 492 in Chapter XIX of **IPC** provide of the Criminal Breach of Contracts of Service.

Sec.357 in Chapter XIX (Of Criminal Intimidation, Insult, Annoyance, Defamation, etc) of **BNS**, provide of Breach of Contract to attend on and supply wants of helpless person.

There are **no deletions and additions** in this Chapter.

Of OFFENCES RELATING TO MARRIAGE.

Secs.493 to 498 in Chapter XX of **IPC** provide Offences Relating to Marriage.

Secs.81 to 84 in Chapter V (of Offences against Woman and Child) of **BNS** provide Offences Relating to Marriage.

The following Section is **deleted** :

Sec.497 : *Adultery.*

As per the decision of Hon'ble Supreme Court of India reported in **(2019) 3 SCC 39** in **Joseph Shine .vs. Union of India**, this Section was held to be unconstitutional as it is discriminated against women and violated Articles 14, 15 and 21 of the Constitution. It only punishes the man involved, essentially treating the married woman as the 'chattel' or property of her husband; and also it is a moral wrong and valid ground for divorce.

Of CRUELTY BY HUSBAND OR RELATIVES OF HUSBAND.

Sec.498-A in Chapter XX-A of **IPC** provide – Husband or Relative of Husband of a Woman subjection her to Cruelty.

Sec.85 in Chapter V (of Offences against Woman and Child) of **BNS** provide Husband or Relative of Husband of a Woman subjection her to Cruelty.

There is **no change** in this Section.

Of DEFAMATION

AND

Of CRIMINAL INTIMIDATION, INSULT AND ANNOYANCE

Secs.499 to 502 in Chapter XXI of **IPC** provide **Defamation**.

Secs.503 to 510 in Chapter XXII of **IPC** provide **Criminal Intimidation, Insult and Annoyance**.

Secs.351 to 356 in Chapter XIX of **BNS** provide **Criminal Intimidation, Insult, Annoyance and Defamation**.

There are **no Additions and Deletions** in this Chapter.

Of ATTEMPTS TO COMMIT OFFENCE

Sec.511 in Chapter XXIII of **IPC** provide Attempts to Commit Offence.

Sec.62 in Chapter IV (Of Abetment, Criminal Conspiracy and Attempt) of **BNS** provide Attempts to Commit Offence.

There is **no change** in this Section.

REPEAL AND SAVINGS

Sec.358 in Chapter XX of **BNS** provide Repeal and Savings.

Sec.358 : (1) The Indian Penal Code is hereby repealed.

(2) Notwithstanding the repeal of the Code referred to in sub-section (1), it shall not affect, ---

(a) the previous operation of the Code so repealed or anything duly done or suffered thereunder; or

(b) any right, privilege, obligation or liability acquired, accrued or incurred under the Code so repealed; or

(c) any penalty, or punishment incurred in respect of any offences committed against the Code so repealed; or

(d) any investigation or remedy in respect of any such penalty; or punishment; or

(e) any proceeding, investigation or remedy in respect of any such penalty or punishment as aforesaid, and any such proceeding or remedy may be instituted, continued or enforced, and any such penalty may be imposed as if that Code had not been repealed;

(3) Notwithstanding such repeal, anything done or any action taken under the said Code shall be deemed to have been done or taken under the corresponding provisions of this Sanhita.

(4) The mention of particular matters in sub-section (2) shall not be held to prejudice or affect the general application of Section 6 of the General Clauses Act, 1897 with regard to the effect of the repeal.

CONCLUSION :

There are nearly 190 changes (minor and major) are introduced.

In total 20 new offences are added.

19 provisions are deleted.

Punishment of imprisonment is increased in 41 offences.

Punishment of fine is enhanced in 83 offences.

Mandatory minimum punishment is introduced in 23 offences.

Illustrations are not given for the new provisions in BNS. In case of giving illustrations, it is very much useful not only for the new entrants, but also for all.

Due to transition from IPC to BNS, new forms of criminality ie., Cyber crimes, etc., are recognized, while continuing the substantive core crimes. Judicial interpretation is required to clear some of the ambiguities/confusions regarding some of the provisions. Even after repealment of IPC, the pending cases prior to 01-07-2024 should be dealt with under IPC only. The ultimate purpose of IPC or BNS is to punish the offenders and to maintain peace in the Society.
