



गृह मंत्रालय
MINISTRY OF
HOME AFFAIRS

सत्यमेव जयते



New Criminal Laws, 2023



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Preface

The Indian Parliament has initiated a transformative step in the criminal justice system by replacing three historical laws: the Indian Penal Code, 1860, the Code of Criminal Procedure, 1973, and the Indian Evidence Act, 1872, with the Bharatiya Nyaya Sanhita, 2023, the Bharatiya Nagarik Suraksha Sanhita, 2023, and the Bharatiya Sakshya Adhinyam, 2023, respectively. These new laws, grounded in Indian values of justice (nyaya), signify a shift from a punitive to a justice-oriented approach, reflecting “*Bhartiya Nyaya Vyavastha*”.

The colonial-era laws were designed to safeguard British interests, devoid of consultation with Indians and embedded with British centric terminologies and frameworks.

These legislative changes mark the culmination of the ‘Azadi Ka Amrit Mahotsav’ and herald the dawn of ‘Amrit Kaal,’ symbolizing the forging of a truly independent India. The revision process, under the leadership of Hon’ble Prime Minister Shri Narendra Modi and spearheaded by Union Home Minister and Minister of Cooperation Shri Amit Shah, involved extensive consultations with diverse stakeholders going on from year 2019, including judiciary members, law universities, state officials and the public. This collaborative effort ensures the laws are “justice system which will be entirely be indigenous, it will operate according to laws made by India, for India and by the Indian parliament”.

The overarching goal is to create a criminal justice system that not only protects citizens’ rights but also upholds the Rule of Law, ensuring accessible and speedy justice for all. This reform represents a significant stride towards an equitable, modern and just legal framework in India.

Jai Hind

Justice system based on Indian thinking

These Acts are intended to overhaul the Indian legal system and establish a “justice system based on Indian thinking”.

- ▶▶ The new criminal laws will free people from “colonial mindset” and its symbol and decolonize our minds.
- ▶▶ These Laws Focus on Justice rather than Punishment.
- ▶▶ “Sab Ke Saath Samaan Vyavhar” is the key theme.
- ▶▶ They reveal the real spirit of original Indian Code of Justice.
- ▶▶ They are made with spirit of Indian Constitution.
- ▶▶ The laws guarantee personal freedom of expression.
- ▶▶ The value of human rights are at its core.
- ▶▶ They will ensure Victim Centric Justice.
- ▶▶ The soul of new laws is *Nyaya, Samaanta aur Nishpakshata.*

Citizen Centric Laws

The new criminal laws with spirit of Indian ethos makes paradigm shift towards more citizen centric approach.

- ▶▶ In Section 173(1) BNSS gives citizen right to file an FIR through oral or by electronic communication (e-FIR) also, irrespective of area where the offence is committed citizen can file FIR.
- ▶▶ Citizen are entitled to get a free copy of their FIR by the police without any delay under Section 173(2) (1) BNSS.
- ▶▶ The police are mandated to inform the victim on the progress of the investigation within 90 days under Section 193(3)(ii) BNSS.
- ▶▶ Section 184(1) BNSS the medical examination of a victim shall be conducted with her consent, within 24 hrs of receiving information about the commission of the offence. Medical report shall be forwarded within 7 days under Section 184(6) BNSS.



- ▶▶ Citizens are empowered to engage their own legal representation to assist the prosecution under Section 18 (8) BNSS.
- ▶▶ The criminal justice system made more transparent, accountable and accessible. In Section 230 BNSS, the supply of documentation to the citizen has been introduced.
- ▶▶ The victim have a right to free medical treatment and victim compensation under Section 396 BNSS.
- ▶▶ Provision for witness protection scheme has been provided under Section 398 BNSS.
- ▶▶ The Courts are mandated to hear the victim before giving consent for withdrawal from prosecution in Section 360 BNSS. This is best example of a 'Nyaya Centric Approach' to criminal justice.
- ▶▶ Section 404 BNSS victims are entitled to get a free copy of the judgment on an application to the Court.
- ▶▶ In Section 530 BNSS the law allows for investigation, inquiry and trial proceedings also be held electronically.

New Criminal Laws at a Glance

Bharatiya Nyaya Sanhita, 2023 (BNS)

Key Changes

- ▶▶ Reduced sections from 511 in IPC to 358 in BNS
- ▶▶ Added 20 new offences
- ▶▶ Compulsory minimum punishment prescribed for certain offences
- ▶▶ Community service for 6 petty offences
- ▶▶ In certain offences fine has been increased
- ▶▶ In certain offences quantum of punishment enhanced

Some Key Features

- ▶▶ Consolidates offences against women and children in a single chapter
- ▶▶ Section 69: Strict punishment for sexual intercourse on false promise
- ▶▶ Section 70(2): Death penalty as punishment for gang rape

**For more information refer NCRB Sankalan app/website link*

<https://ncrb.gov.in/uploads/SankalanPortal/Index.html>

Bharatiya Nagarik Suraksha Sanhita, 2023 (BNSS)

Key Changes

- ▶▶ Increased sections from 484 in CrPC to 531 in BNSS
- ▶▶ Replaced 177 sections
- ▶▶ Added 9 new sections
- ▶▶ Repealed 14 sections

Some Key Features

- ▶▶ Enhances use of technology in investigation
- ▶▶ Increase fines by Magistrate
- ▶▶ Streamlines FIR processes and victim protection
- ▶▶ Section 173: Zero FIR and e-FIR provision introduced
- ▶▶ Section 176(1): Law permits Audio-Video recording of victim statement

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Bharatiya Sakshya Adhinyam, 2023 (BSA)

Key Changes

- ▶▶ Increased sections from IEA 167 to 170 in BSA
- ▶▶ Changed 24 sections
- ▶▶ Added 2 new sections
- ▶▶ Repealed 6 sections

Some Key Features

- ▶▶ Recognizes electronic/digital records as primary evidence
- ▶▶ Provides framework for digital evidence authenticity
- ▶▶ Section 2(1)(d): Expanded definition of documents
- ▶▶ Section 61: Parity in admissibility of digital records as other documents
- ▶▶ Section 62 & 63: Admissibility of electronic records acceptable in court

**For more information refer NCRB Sankalan app/website link*

<https://ncrb.gov.in/uploads/SankalanPortal/Index.html>

Women and Children

- ▶▶ New Criminal Laws includes 37 sections addressing crime against women and children.
- ▶▶ Offences against woman and child have been made gender neutral in terms of both the victim and the perpetrator.(Section 2 BNSS)
- ▶▶ Gang rape with girl under 18 years of age is made punishable with life imprisonment or death. (Section 70 BNS)
- ▶▶ Engaging in sexual activity under false promise or disguised identity is now considered a criminal act.(Section 69 BNS)
- ▶▶ Medical practitioners are mandated to send the medical report of a victim of rape to the investigating officer within seven days.(Section 51 (3) BNSS)

Infusion of Technology in the Delivery of Justice

- ▶▶ Comprehensive digitalisation of all stages of criminal justice system. It include e-records, zero- FIR, e-FIR, summons, notices and submission of documents and trials.(Section 173 BNSS)
- ▶▶ e-Bayan introduced for the electronic statement of victims and e-Appearance for the presence of witnesses, accused, experts and victims through electronic means.(Section 530 BNSS)
- ▶▶ Definition of ‘documents’ to include server logs, locational evidence and digital voice messages. The law of evidence now treats electronic evidence as equivalent to physical evidence in courts.(Section 2(1)(d) BSA)
- ▶▶ The scope of secondary evidence broadens under the law, incorporating oral admissions, written admissions and evidence of skilled person who has examined a document.(Section 58 BSA)
- ▶▶ Introduces procedures for videography of search and seizure, including preparing list of seized items and witness signatures. (Section 105 of BNSS)

Victim-Centric Approach

- ▶▶ It recognises the victim as a stakeholder in the criminal proceedings, providing participatory rights. The victim has a right to be heard by the court before withdrawal of the case.(Section 360 BNSS)
- ▶▶ Victim entitled to a copy of the FIR and possess the right to be informed about the progress of the investigation within 90 days.(Section 193 (3)(ii) BNSS)
- ▶▶ Introduces the Witness Protection Scheme, acknowledging the critical need to shield witnesses from threats and intimidation.(Section 398 BNSS)
- ▶▶ The statement of rape victim shall be recorded only by a lady judicial magistrate and, in her absence, by a male judicial magistrate in presence of a woman. (Section 183 (6)(a)BNSS)



Redefined Offences & Punishments

- ▶▶ Snatching is a cognizable, non-bailable and non-compoundable offence.(Section 304 BNS)
- ▶▶ Definition of 'Terrorist Act': covers acts that pose a threat to India's unity, integrity, sovereignty, security, economic security, or spread terror among any group. (Section 113 BNS)
- ▶▶ Changes to 'Sedition': The offence of 'Sedition' is eliminated and BNS penalizes acts endangering the unity and integrity of India, '*Rajdroh*' repealed with introduction of '*Deshdroh*'.(Section 152, BNS)
- ▶▶ 'Mob Lynching' introduced as Offence carrying a maximum penalty of death.(Section 103 (2) BNS)
- ▶▶ Organized crime has been clearly defined.(Section 111 BNS)



Timely and Speedy Justice

- ▶▶ Timeline has been added in 45 sections of BNSS.
- ▶▶ Charges to be framed within 60 days from the commencement of the first hearing on charge. (Section 251 BNSS)
- ▶▶ Prosecution proceedings against declared offenders in absentia should be initiated after completion of 90 days from the date of framing of the charge. (Section 356 BNSS)
- ▶▶ Sanction for prosecution, supply of documents, committal proceeding, filing of discharge petitions, framing of charges, pronouncement of judgment and filing of mercy petitions has been mandated to be completed within stipulated timelines. (Section 251, 258 BNSS)
- ▶▶ No more than two adjournments are allowed to be given in criminal proceeding. (Section 346 BNSS)
- ▶▶ Use of technology for issuance and service of summons and deposition of evidence before court. (Section 530 BNSS)



Transforming Criminal Justice System

- ▶▶ Magistrates are empowered to conduct summary trials in cases that involve imprisonment up to three years.
- ▶▶ **Timely Justice:** Charges to be framed within 60 days from the commencement of the first hearing on charge. After the conclusion of a trial in any criminal court, the pronouncement of the judgment will not take more than 45 days. (Section 251, 258 BNSS)
- ▶▶ **Directorate of Prosecution:** State will have a Directorate of Prosecution under which every district will have District Directorate Prosecution which will monitor cases which are under trial to expedite the proceedings and to give opinion on filing of appeals.(Section 20 BNSS)
- ▶▶ **Electronic Mode for Inquiries and Trials:** All inquiries and trials can also be conducted in electronic mode.(Section 530 BNSS)
- ▶▶ **Release of Undertrials:** First-time offenders may be released if under-trial detention reaches one-third of the sentence. (Section 479 BNSS)

Greater Accountability and Transparency of Police

- ▶▶ Mandatory videography during search and seizure.(Section 105 BNSS)
- ▶▶ No arrest shall be made without prior permission of officer not below the rank of Dy.SP in case of an offence which is punishable with imprisonment for less than 3 years and such person is infirm or is 60 years of age.(Section 35 (7) BNSS)
- ▶▶ Over 20 sections have been introduced to enhance police accountability in arrest, search, seizure and investigation.
- ▶▶ In non-cognizable cases, the daily diary report of all such cases to be forwarded to the Magistrate fortnightly.(Section 174 (1) (ii) BNSS)



Then and Now

Common sections of IPC and BNS generally used

IPC	Subject	BNS
302	Punishment for murder	Section 103
304B	Punishment for dowry death	Section 80
379	Punishment for theft	Section 303
376	Punishment for rape	Section 64
420	Punishment for cheating	Section 318
498A	Women subjected to cruelty by husband	Section 85
120 B	Punishment for criminal conspiracy	Section 61

Common sections of Cr.PC and BNSS generally used

Cr.PC	Subject	BNSS
144	Power to issue orders by Executive Magistrate	Section 163
151	Arrest to prevent commission of cognizable offence	Section 170
154	FIR	Section 173
173	Final report	Section 193



NCRB Sankalan of New Criminal Laws

NCRB has launched a Mobile app “NCRB Sankalan of New Criminal Laws”, which is available on Google play store and Apple App store. This app is useful for everyone and serves as a comprehensive guide for the new criminal laws. It provides an index that links all Chapters and Sections of the new laws and a corresponding chart for section-wise comparison between old and new laws with a search and linking facility for quick information retrieval. The app is designed to work in offline mode.



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