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Professionals**
WHERE EXCELLENCE IS LAW



YEARS OF EXCELLENCE

Webinar on

**“Bhartiya Nyaya Sanhita &
Bharatiya Nagarik Suraksha
Sanhita, 2023 (Replacing IPC
and CrPC)”**



● How New Criminal Codes emerged?

**Historical
Background**

**Need for
Review and
Reform**

Focus Areas

**Aim for
Speedy
Justice**

**Stakeholder
Consultation**

Ease of Living

**Contemporary
Relevance**

Source: Statement of Objects and Reasons specified in the Bills introduced in Lok Sabha



● Reasons for enacting New Criminal Codes

- **Colonial legacy:** The old criminal laws were drafted during colonial times and contain archaic language and concepts that might not accurately reflect current social norms and values.
- **Advancement in technology:** The rapid advancement of technology has introduced new dimensions to crime, evidence, and investigation, and there was a dire need to counter the same.
- **Simplification and streamlining:** The laws have become complex over time, leading to confusion among legal practitioners, law enforcement agencies, and the general public. Therefore, there was a need to simplify and streamline the legal framework to enhance transparency and understanding.
- **Various reports highlighted the need for reforms in criminal laws:** The department-related Parliamentary Standing Committee on Home Affairs, in its 146th report, had recommended that there is a need for a comprehensive review of the criminal justice system of the country.



● Reasons for enacting New Criminal Codes

International Standards and Globalization

Legal Loopholes and Ambiguities

Judicial Efficiency and Effectiveness

Public Demand and Pressure Groups

Political and Ideological Shifts

Addressing Discrimination and Inequality

Harmonization of Laws

Enhanced Punishments and Deterrence

Economic Considerations

International Relations and Security Concerns



● Summary of New Criminal Codes

THE BHARTIYA NYAYA (SECOND) SANHITA, 2023

- To strengthen law and order and focus on simplifying legal procedures.
- To make existing laws relevant to the contemporary situation and provide speedy justice to the common man.
- To streamline provisions relating to offences and penalties.
- To give precedence on dealing with offences against women and children.

THE BHARTIYA NAGARIK SURAKSHA (SECOND) SANHITA, 2023

- To create a fast and efficient justice system.
- To streamline the complex legal procedures.
- To deal speedily with a large pendency of cases in the courts.
- To increase the use of technology in the legal system.



● Revamp of Criminal Codes in India

NAME OF THE OLD LAWS	NAME OF THE NEWLY ENACTED LAWS
THE INDIAN PENAL CODE, 1860	THE BHARTIYA NYAYA SANHITA , 2023
THE CODE OF CRIMINAL PROCEDURE, 1973	THE BHARTIYA NAGARIK SURAKSHA SAHINTA , 2023



Timelines

August 11, 2023	Bhartiya Nyaya Sanhita, 2023 & Bhartiya Nagarik Suraksha Sanhita, 2023 Introduced in Lok Sabha
August 11, 2023	Referred to Standing Committee
November 10, 2023	Report of the Standing Committee
December 12, 2023	Withdrawn
December 12, 2023	Replaced by the Bhartiya Nyaya (Second) Sanhita, 2023 & Bhartiya Nagarik Suraksha (Second) Sanhita, 2023
December 20, 2023	Passed by Lok Sabha
December 21, 2023	Passed by Rajya Sabha
December 25, 2023	Received Presidential Assent



● Applicability of New Criminal Codes

- New Criminal Laws will come into force on such date as the Central Government may, by notification in the Official Gazette, notify.
- As of now, no specific date has been notified by the central government for the implementation of these newly framed laws.
- **Presently, the newly enacted criminal laws are not into force in India.**



● Key Changes introduced in The Bharatiya Nyaya Sanhita, 2023

Key Changes introduced through BNS	Explanation
Of Sexual Offences against Women (Chapter 5 of the BNS2)	Code increases the threshold for the victim to be classified as a major, in the case of gang rape, from 16 to 18 years of age. Also, the age-based parameter for differential punishment for gang rape of a minor girl has been removed.
Sexual intercourse by employing deceitful means etc.(Section 69)	A new Provision is added to punish people who employ deceitful means like false promises of marriage to obtain the consent of the woman and get involved in sexual intercourse.
Snatching (Section 304)	A new Provision is added to make the act of snatching an offence in every part of the country which punishes act of forcible seizure or grabbing of movable property.
Causing death by rash or negligence act (Section 106)	Punishment has been increased from 2 years to 5 years imprisonment. However, for medical practitioners, the punishment will be 2 years.



● Key Changes introduced in The Bharatiya Nyaya Sanhita, 2023

Key Changes introduced through BNS	Explanation
Mob Lynching (Section 103)	A new provision has been introduced for offences under the category of 'Murder' in Section 103(2) of the BNS, 2023.
Sedition	BNS removes the offence of sedition. It instead penalises the following: (i) exciting or attempting to excite secession, armed rebellion, or subversive activities, (ii) encouraging feelings of separatist activities, or (iii) endangering the sovereignty or unity and integrity of India.
Attempt to commit suicide (Section 226)	The offence of 'attempt to commit suicide' has been deleted in the BNS, 2023. This brings the law in line with the Mental Healthcare Act, 2017. A new Section 226 has been added in the BNS, 2023 to punish those who attempt to commit suicide with the intent to compel or restrain the exercise of any lawful power by a public servant.



● Key Changes introduced in The Bharatiya Nyaya Sanhita, 2023

Key Changes introduced through BNS	Explanation
Community Service (Section 4)	Community Service' has been introduced as one of the punishments in Section 4 of the BNS, 2023. It has been specifically provided for 6 petty offences, like non-appearance in response to a proclamation, attempt to commit suicide to compel or restraint exercise of lawful power of public servant, petty theft on return of theft money, misconduct in public by a drunken person, defamation, etc.
Voluntarily causing grievous hurt. (Section 117)	A new provision 117(3) has been introduced in the BNS, 2023, to provide stringent punishment for such acts of grievous hurt which result in a persistent vegetative state or in permanent disability. If grievous hurt results in a persistent vegetative state or in permanent disability, it will attract higher punishment of rigorous imprisonment for a term which shall not be less than ten years but which may extend to imprisonment for life.



● Areas of concerns in The Bharatiya Nyaya Sahita, 2023

- **Aspects of Sedition Retained** - In the earlier Code (IPC), sedition is defined as bringing or attempting to bring hatred, contempt, or exciting disaffection towards the government. Supreme Court has put the offence of sedition on hold until a Constitution bench examines it. The BNS2 removes this offence. Instead, it adds a provision that penalizes those exciting or attempting to excite secession, armed rebellion or subversive activities.
- **Duplication of offences with other special laws** - When the IPC was enacted, it encompassed all criminal offences. Over time, special laws like UAPA (Unlawful Activities Prevention Act, 1967 Prevention of Corruption Act, 1988 etc.) have been enacted to address specific subjects and related offences. The BNS2 adds certain new offences, such as “Organised Crime” and “Terrorism”, which are already covered under special laws like UAPA. This will lead to complexity and duplication in streamlining the criminal justice system.



● Key Changes introduced in The Bharatiya Nagarik Suraksha Sanhita, 2023

Key Changes introduced through BNSS	Explanation
Certain new procedures pertaining to the registration of First Information Reports (FIRs), i.e., concept of Zero FIR & FIR registered through electronic communication. (Section 173)	The concept of “Zero FIR” has been introduced. Once the Zero FIR is registered, the concerned police station has to transfer the said FIR to the police station, which has jurisdiction to investigate the case. Also, FIRs can be registered via electronic communication (as prescribed), and it shall be taken on record on being signed within three days by the person giving such information.
Additional powers for attachment and forfeiture of property. (Section 107)	BNSS seeks to provide the Magistrate with powers to attach property identified as ‘proceeds of crime’. The intention behind this provision seems to be either to secure the presence of fugitives or confiscate the properties of fugitives who are evading summons/investigation/trial.



● Key Changes introduced in The Bharatiya Nagarik Suraksha Sanhita, 2023

Key Changes introduced through BNSS	Explanation
Procedure when investigation cannot be completed in twenty-four hours. (Section 187)	BNSS now clarifies and provides that police custody can be sought for a maximum period of 15 days. However, it provides that the same may be taken either all at once or in a staggered manner.
Use of of electronic mode at stages of investigation, inquiry and trial	Introduction of electronic communication and audio-video electronic means for various procedures under Act. This is keeping in line with the objective of the BNSS to introduce an increased use of technology for legal procedures.
Adherence with timelines	One of the major objectives of overhauling criminal laws was to provide for a time-bound justice delivery system. <ul style="list-style-type: none">• Charges are to be framed within the period of 60 days from the first date of hearing on charge (trial before a Court of Sessions);• A judgment of acquittal or conviction (trial before a Court of Session) has to be passed within 30 days from completion of arguments which can be extended by 45 days only by giving specific reasons



● Key Changes introduced in The Bharatiya Nagarik Suraksha Sanhita, 2023

Key Changes introduced through BNSS	Explanation
Preliminary Enquiry (Section 173)	BNSS in Section 173(3) introduced the concept of 'preliminary enquiry' in cases punishable with 3 years or more but less than 7 years. The timeline to complete such preliminary enquiry is fixed as 14 days. Such preliminary enquiry may be conducted only with the prior permission of the officer not below the rank of Deputy Superintendent of Police.
Summary Trial (Section 283)	To reduce the burden on judiciary and expedite trial process in petty and less serious cases, Section 283 makes summary trial mandatory for petty and less serious offences (like theft, receiving or retaining stolen property, house trespass, breach of peace, criminal intimidation, etc.).
Mercy Petition in Death Sentence Cases (Section 472)	A new provision for time bound disposal of mercy petitions filed before the President and Governor has been made in Section 472. This provision prescribes a timeframe, requiring such petitions to be filed within 30 days before the Governor and 60 days before the President



● Areas of concerns in The Bharatiya Nagarik Suraksha Sanhita, 2023

- **Procedure of police custody altered-** As per Article 22 of the Indian Constitution and Section 51 of Cr. P.C. prohibits detention in police custody beyond 24 hours earlier. But as per the BNS, the Magistrate is empowered the police custody up to 15 days in case the investigation cannot be completed within 24 hours. This could lead to bail being denied during this period if the police argue that they need to take the person back into police custody.
- **Data collection for criminal identification-** In 2005, the CrPC was amended to empower a Magistrate to obtain handwritten or signature specimens from arrested persons. The BNS expands this provision by empowering the Magistrate to also collect finger impressions and voice samples. With a broader law recently being passed to allow for data collection of criminals and accused, the need for retaining data collection provisions and expanding on them in the BNS is unclear.



● Aftermath of New Criminal Codes

- **After truckers and taxi drivers protested in various states against the new penal law on hit-and-run accidents.-** A day after the truck drivers' nationwide protest against a new penal provision in hit-and-run cases caused panic buying of fuel in several states. The Bharatiya Nyaya Sanhita, 2023, which repealed the British-era Indian Penal Code (IPC) provides up to 10 years of punishment for fleeing an accident spot and not reporting the incident. The punishment in such cases was 2 years in the IPC.
- **PIL (Public Interest Litigation) filed before the Supreme Court challenging three Criminal Law Amendment Acts-** PIL has been filed for seeking directions to the government to set up an expert panel under the chairmanship of a former judge of the apex court to examine, assess and identify the viability of the three new laws. It also asked the Supreme Court to stay the implementation and operation of the law.





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