

# Three New Criminal Laws: Highlights

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## **Abstract:**

The three new criminal laws replace the earlier laws i.e. The Indian Penal Code, 1860. The Criminal Procedure Code, 1973 and the Indian Evidence Act, 1872. It was important to bring these new criminal laws to modernize the legal system, improve access to justice and ensure that the criminal justice system is more efficient and transparent. It was important that the old criminal laws are replaced by new laws keeping in view the advancement of technology and introduction of new crimes and methods of committing crime. This paper discusses the salient features of the new criminal laws in a very simple manner so that a commoner may understand the New Criminal Laws.

## **Objective:**

1. To discuss the objectives of new criminal laws.
2. To discuss the key provisions of the new criminal laws.
3. To discuss the salient provisions of Bharatiya Nyaya Sanhita, 2023
4. To discuss the salient features of the Bharatiya Nagarik Suraksha Sanhita, 2023.
5. To discuss the salient features of The Bharatiya Sakshya Adhiniyam, 2023.

## **Introduction:**

Today, in the age of AI and Internet related crimes, it is very important that the criminal laws are able to give justice to the people in case of any crime. It is said that justice delayed is justice denied, so if an offence is committed in India which is not an offence as per the existing criminal law then the people lose faith in the Criminal Justice System. In the age of AI, if electronic records are not preserved and technology is not used while registering the case, visiting the scene of crime, taking statements, and recording of the statements, doing investigation, preparing the charge sheet, then somewhere it comes to our mind that we have not moved with the time.

The Bharatiya Nyaya Sanhita, 2023: Indian Penal Code 1860 is replaced by Bharatiya Nyaya Sanhita 2023. It has total 20 chapters and 358 sections.

Objective of The Act:

An Act to consolidate and amend the provisions relating to offences and for matters connected therewith or incidental thereto.

## **Highlights of Bharatiya Nyaya Sanhita, 2023(BNS):**

- Need of the new law to cater to modern crimes and modern ways of committing crime.
- New forms of crimes have been introduced in the new law.
- New law has been introduced to address the issue of large pendency of cases. (around 5 Crores cases),

- New law will help in increasing conviction rate which is 50 to 60 percent at present, by including technology in the Criminal Justice System.
- With the help of community service provision for petty offenses, prison overcrowding issue will be resolved.
- Issues related to vulnerable people Will be addressed in a holistic manner.
- Victim and Witnesses safety will be ensured by using technology in recording statements and by using In camera proceedings.
- Bharatiya Nyaya Sanhita provides six types of punishment. Death sentence, life imprisonment, rigorous or simple imprisonment, forfeiture of property, fine and community service. Community service has been added in this Act. Previously, community service was for juveniles. By adding the provision of Community service, the human rights of the Convicted people are also preserved.
- Issues related to organized crimes and mob lynching were not addressed earlier. Mob lynching has been added in BNS. Section 103(2).
- Investigation and charge sheet was not regulated with proper time frames now time frame has been provided in the new laws.
- Previously., there were unstructured sections as lot of amendments had taken place after 1860. Now it is properly structured so that any common person is able to see the offenses at one place. For example, if I have to see crime related to women or children, I will have to refer Chapter 5 of the BNS.
- Accountability and Transparency issues have been addressed in the new law.
- Consolidation of amended sub-sections and provisions were need of the hour which is done in the new law.
- In certain offenses, the punishment has been enhanced to cater to the changing times.
- Definitions are clubbed in Section 2 of the Act.
- New offences have been added and few outdated and irrelevant offences are deleted.
- Gender-neutral terms have been used except women and male.
- Death by negligence provision: 2 years in case of medical practitioners (lenient view),

5 years in case of other negligence, 10 years in hit-and-run cases. (This is not implemented at present after the transporters' strike.)

- In marital rape, the age has been enhanced from 15 to 18 years. In case of marital rape of wife above 18 years of age, the Act is still silent.
- Gender-neutral terms have been used in criminal offences, voyeurism, disrobing the modesty of women.
- Section 85 & 86 related to cruelty by husband and relatives does not consider the case of misuse of this provision, and the Supreme Court has said to relook at these sections.
- Judicial Magistrate first class and second class can award community service in case of:
  - a. Theft – if the value of the property is less than Rs. 5000/-
  - b. Defamation
  - c. Staging suicide in front of public servants
  - d. Non-appearance in issuance of proclamation
  - e. Trading by public servant
  - f. Drunkard persons

But the rules of community service are yet to be framed and The Agency who will monitor the community service is yet to be decided. At present, the budgetary provisions are not made. People official who will record and report the committee service undertaken by the convicted person are yet to be decided. Monitoring of the report is also not available at present.

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- Voluntary causing grievous hurt is included under Section 117 ( 4). Organized crime has been added under the Bharti Sangeeta BNS 2023.
- The term child is used in BNS to make it gender neutral.

The Bharatiya Nagarik Suraksha Sanhita, 2023(BNSS): This law has replaced The Criminal Procedure Code. 1973.The CrPC provides for the procedure of arrest, prosecution and bail.

### **Objective:**

An Act to consolidate and amend the law relating to Criminal Procedure.

### **Highlights:**

- There are total 39 Chapters and 530 Sections in BNSS.
- Most of the sections are retained in this Legislation of The Criminal Procedure Code.
- In these 14 sections are deleted and 9 sections are added.
- Amendments done in the earlier legislation have been added as separate section in the Act.
- Trial in absentia of proclaimed offenders has been introduced.
- Recording of search and seizure proceedings have been added.
- Attachment, forfeiture and restoration of immovable and movable property by prior approval of the Superintendent of Police and order by the Magistrate (Section 107)has been added.
- Provision of Trial and proceeding in electronic mode (Section 530) is done.
- Mercy petition (Section 472): till now mercy petitions were accepted and rejected by the President of India and the Supreme Court had the power for judicial review. Now appeal has been specifically barred on the ground of rejection or acceptance of mercy petition.
- Now all proceedings can be recorded, and there is a provision for in-camera proceedings.
- Now there is a provision of Evidence of public servants, police officers in certain cases (Section 336).
- Witness protection scheme (Section 398) has been introduced in a comprehensive manner.
- Persons bound to confer to Lawful directions of police (Section 172): If lawful direction is not followed, then the police officer can remove that person from the area for 24 hrs. or keep in the police station for 24 hrs.
- The investigating agency will record in case of search and seizure.
- Forensic advice can be taken for offences which have more than seven years of punishment and for offences related to body and person.
- Use of electronic communication to serve summons.
- Provision of e-FIR: At present eight states accept e-FIR for limited offences but now onward it will be for all cognizable offences. Within three days the applicant has to go to the concerned police station for necessary action.
- In 40 sections, timeline has been added.

- Victim-centric law.
- Now Judgment uploading and providing a copy of the judgment to the victim is mandatory.
- Special treatment is given to first-time offenders.
- In case of plea bargaining, less punishment for first-time offenders.
- The BNS mandates forensic investigation for offenses punishable with seven years of imprisonment or more. Forensic experts will visit crime scenes to collect forensic evidence and record the process. This will help in Speedy justice.
- All trials, inquiries and proceedings may be held in electronic mode. Production of electronic communication devices likely to contain digital evidence, will be allowed for investigation, inquiry or trial.
- If a proclaimed offender has absconded to await trial and there is no immediate prospect of arresting him, then the trial can be conducted, and judgment can be pronounced in his absence.
- Along with specimen signatures, handwritings, finger impressions and voice samples may be collected for investigation or proceedings. Samples may be taken from a person who has not been arrested.

The Bharatiya Sakshya Adhiniyam, 2023: This Act replaces the Indian Evidence Act. There are 12 chapters and 170 sections in this Act.

**Objectives:** An Act to consolidate and to provide for general rules and principles of evidence for fair trial.

Highlights:

- Digital evidence will be recorded in criminal cases. This will help in Increasing the conviction rate.
- Quality of evidence is more important as per the new law.
- Focus on digital recording of evidence is done in BSS.
- Confession is irrelevant in case of coercion.
- Provision is made for upkeep of digital records.
- Issues related to A.I. manipulations have not been addressed in BSS.
- Fragile nature of digital records needs to be addressed in BSS by making comprehensive guidelines and procedures.
- Training and mandatory upkeep of digital data is important.

**Conclusion:**

The new 3 criminal laws have been introduced to cater to the technological interventions and Modern Crimes in the society. The provision of in camera trials and recording of the crime scene. E FIR, Zero FIR is a great initiative. We need to educate the common people about the new laws so that they are able to understand them and take benefit in case of any Crime. The introduction of community service for petty offenses is a great initiative. This will help in Protecting the rights of the citizens who are involved in petty offenses and they will be away from the habitual offenders and hard core criminals. By doing the community service, they will be working in the society and will change for good. By introducing the system of In camera proceeding and Recording of statements and evidences the government will be able to protect the victims and witnesses. This was also save time and money and result in speedy justice.

As per the new law compensation will be awarded to the victims of crime based on the loss they have suffered. So ,the court can award more compensation in cases of Acid attacks, Accidents, etc. so that the

victim is able to meet the medical and financial expenses. As the compensation will be paid to the victim immediately so the victim will be able to utilize the money for medical and other needs.

## **References:**

1. The Bharatiya Nyaya Sanhita,2023.
2. The Bharatiya Nagarik Suraksha Sanhita,2023.
3. The Bharatiya Sakshya Adhinyam,2023.