



# New Criminal Laws Come into Force

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## Why in News?

Recently enacted three new criminal laws [Bharatiya Nyaya Sanhita \(BNS\)](#), [Bharatiya Nagarik Suraksha Sanhita \(BNSS\)](#), and [Bharatiya Sakshya Adhiniyam \(BSA\)](#) are set to take effect from 1st July 2024, replacing the colonial-era [Indian Penal Code \(IPC\)](#), [Code of Criminal Procedure \(CrPC\)](#) and [Indian Evidence Act](#).

## What are the Key Highlights of the New Criminal Laws?

- **Objective:** The new laws aim to **replace colonial-era punishments** with a justice-focused approach, integrating **technological advancements** in police investigations and court procedures.
- **New Offences:** New offences include [terrorism](#), [mob lynching](#), [organized crime](#), and enhanced punishments for crimes against women and children.
- **Steps for Smooth Transition:**
  - States are free to bring in their own amendments to some provisions of the **Bharatiya Nagrik Suraksha Sanhita (BNSS)**.
  - The **Bharatiya Nyaya Sanhita (BNS)** may also be amended soon to incorporate a section on **sexual crimes** against men and transgender persons.
    - For the time being police officers are being asked to invoke **other allied sections** under the BNS, such as wrongful confinement and physical hurt, if they get such complaints until an amendment is brought to correct this anomaly.
  - The IPC and CrPC will **run concurrently along with the new laws** as several **cases are still pending** in courts and some crimes that took place before 1st July 2024 that are reported later will have to be registered under the IPC.
  - **First information reports (FIRs)** can now be filed online through the [Crime and Criminal Tracking Network Systems \(CCTNS\)](#), allowing [e-FIRs](#) and [zero FIRs](#) in multiple languages without needing to visit a police station.
  - **Training and hand-holding** have been done for all States to help them adapt to the new system.
  - While the Home Ministry is testing **eSakshya**, a mobile app for police to record and upload crime scene evidence, various states have developed their own systems based on their capabilities.
    - For example, the **Delhi Police** have developed an **e-pramaan application**.
- **Key Points in New Laws:**
  - Introduces **community service** as punishment for petty offences.
  - A **terrorist act defined** as one intending or likely to threaten India's unity, integrity, sovereignty, security, or economic security, or acts intended or likely to strike terror among the people.
  - **Mob lynching now punishable** by death or life imprisonment **if committed by five or more** on grounds such as race, caste, community, sex, place of birth, language, personal belief.
  - There will be **trial in absentia** of fugitive criminals.
  - **Summary trials** now cover cases where the **punishment is up to 3 years**, aiming to

resolve more than 40% of cases in sessions courts.m

- **Videography compulsory** during search and seizure. No charge sheet valid without such recording.
- A **first-time offender** who has served a third of the jail term will be **released on bail by the court.**
- **Forensic experts** should be used in every case where the punishment includes seven or more years in jail.

#### ▪ **Bharatiya Nyaya Sanhita, 2023:**

# BHARATIYA NYAYA SANHITA (BNS), 2023

*BNS 2023 replaced Indian Penal Code 1860, incorporating 358 sections (511 in IPC), maintaining most of the IPC provisions, introducing new offences, eliminating court- struck-down offences, and enhancing penalties for various offences.*

### New Offences

- **Promise to Marry:** Criminalising “deceitful” promises to marry
- **Mob Lynching:** Codify offences linked to mob lynching and hate-crime murders
- Ordinary criminal law now covers **Organized Crime** and **Terrorism**, including a broader scope for terror financing in BNS compared to UAPA
- **Attempt to Suicide:** Criminalises attempts to commit suicide with intent to compel or restrain any public servant from discharging official duty
- **Community Service:** Added as possible form of punishment

### Deletions

- **Unnatural Sexual Offences:** Section 377 of the IPC, which criminalised homosexuality among other “unnatural” sexual activities repealed completely
- **Adultery:** Offence of adultery omitted in consonance of apex court judgement
- **Thugs:** Section 310 of IPC fully omitted
- **Gender Neutrality:** Some laws dealing with children modified to bring gender neutrality

### Other Modifications

- **Fake News:** Criminalisation of publishing false and misleading information
- **Sedition:** Introduced under a new name ‘deshdroh’ with wider definition
- **Mandatory Minimum Sentence:** In several provisions, mandatory minimum sentences prescribed which may limit scope for judicial discretion
- **Damage to Public Property:** Carry a graded fine (i.e. fine corresponding to the amount of damage caused)
- **Death by Negligence:** Elevates punishment for causing death by negligence from two to five years (for doctors - 2 yrs imprisonment)

### Key Issues

- **Criminal Responsibility Age Discrepancy:** Criminal responsibility starts at seven, extendable to 12 based on maturity, potentially conflicting with global recommendations
- **Inconsistencies in Child Offense Definitions:** It sets child age below 18, but age criteria for offenses like rape differ, causing inconsistency
- **Retention of IPC Provisions on Rape and Sexual Harassment:** Maintains IPC provisions on rape and sexual harassment, omitting **Justice Verma Committee's 2013** suggestions for gender-neutral rape and recognizing marital rape as an offense.



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#### ▪ **Bharatiya Sakshya Act, 2023:**

# BHARATIYA SAKSHYA ACT, 2023 ↙

*The Bharatiya Sakshya Act, 2023 has 170 sections, altering 24, adding two, and repealing six of 167 sections of the Indian Evidence Act 1872.*

## Retained Provisions

- ↳ Parties involved in a legal proceeding can only present admissible evidence
- ↳ Court accepts proven facts if evidence supports reasonable action in the given circumstances
- ↳ Police confessions generally inadmissible unless recorded by a Magistrate

## Key Changes

- ↳ Electronic records hold equivalent legal status to traditional paper documents
  - ↳ Electronic records encompassing data stored in memory and communication devices
- ↳ Allows oral evidence to be given electronically
  - ↳ Electronic records are categorised as secondary evidence
- ↳ A joint trial means trying more than one person for the same crime
  - ↳ A trial of multiple persons, where an accused has not responded to an arrest warrant, will be treated as a joint trial

## Key Issues

- ↳ **Electronic Records:**
  - ↳ Concerns regarding tampering of electronic records during the search, seizure and investigation process
  - ↳ Usually, Electronic records must be authenticated by a certificate to be admissible as documents
  - ↳ The Act classifies electronic evidence as documents (which may not need certification), creating a contradiction
- ↳ **Exclusion of Suggestion of SC and Law Commission**
  - ↳ Concerns about duress and torture as Act kept a rule allowing information from someone in police custody to be used if it's directly related to a discovered fact
  - ↳ Exclusion of the presumption of police responsibility for injuries to someone in custody



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## ▪ Bharatiya Nagarik Suraksha Sanhita, 2023:

# BHARATIYA NAGARIK SURAKSHA SANHITA (BNSS), 2023

BNSS replaces CrPC 1973 and consists of 531 sections with 177 sections revised, 9 new sections added, and 14 sections repealed.



## Key Provisions

- ⌵ **Hierarchy of Courts:** Eliminated distinction and role of Metropolitan Magistrates
- ⌵ **Mandated Use of Electronic Mode:** At stages of investigation, inquiry, and trial
- ⌵ **Detention of Undertrials:** Restriction on release on personal bond for accused persons (a) charged with life imprisonment or (b) facing multiple proceedings
- ⌵ **Alternative to Arrest:** An accused doesn't have to be arrested; instead, the police can take a security bond for their appearance before a Judicial Magistrate
- ⌵ **Community Service Defined:** 'Work which the Court may order a convict to perform as a form of punishment that benefits the community, for which he shall not be entitled to any remuneration'
- ⌵ **Substitution of Terminology:** "Mental illness" replaced by "unsoundness of mind" in majority of provisions
- ⌵ **Documentation Protocols:** Searches with/without warrants require mandatory audio-video documentation with recorded material promptly submitted to Magistrate
- ⌵ **Timelines for Procedures:** Prescribes timelines for various procedures
  - E.g. Issuing verdict within 30 days post-argument
- ⌵ **Medical Examination:** Can be requested by any police officer in certain cases
- ⌵ **Sample Collection:** Magistrate can compel individuals to submit signature specimens, handwriting samples etc. even if they haven't been arrested
- ⌵ **Forensic Investigation:** Mandated for offences punishable with  $\geq 7$  years of imprisonment
- ⌵ **New Procedures w.r.t. FIR Registration:**
  - After filing a **Zero FIR**, relevant police station must transfer it to the jurisdictionally appropriate station for further investigation
  - **FIRs can be electronically registered**, and the information will be officially recorded upon the person's signature within 3 days
- ⌵ **Rights of Victim/Informant:**
  - Police after filing charge sheet obligated to supply police report and other documents to victim
  - Witness protection scheme to be laid down by State Governments



## Key Issues

- ⌵ **Permitted 15 days of police custody** within initial 40 or 60 days
- ⌵ **Doesn't mandate investigating officer to provide reasons** when seeking police custody
- ⌵ **Allows use of handcuffs during arrests**, contradicting SC rulings and NHRC guidelines
- ⌵ Scope of **mandatory bail limited** in case of multiple charges
- ⌵ **Limits plea bargaining in India** to sentence bargaining
- ⌵ Restricting bail, and limiting scope for plea bargaining could **deter decongesting of prisons**
- ⌵ **Power to seize property expanded** to immovable property apart from movable property
- ⌵ Several provisions **overlap** with existing laws
- ⌵ **BNSS retains CrPC provisions** related to public order, raising the question of whether laws governing trial procedure and public order maintenance should be unified or treated separately, considering their distinct functions



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## Related Initiatives Taken by Government

- [National Mission for Justice Delivery and Legal Reforms](#)
- [AI Portal SUPACE](#)

- [Modernisation of Police Scheme](#)
- [Bharatiya Nyaya \(Second\) Sanhita, 2023](#)
- [Bharatiya Nagarik Suraksha \(Second\) Sanhita, 2023](#)
- [Bharatiya Sakshya \(Second\) Bill, 2023](#)
- [National Mission for Justice Delivery and Legal Reforms](#)

## UPSC Civil Services Examination, Previous Year Question (PYQ)

### ***Mains***

**Q.** Mob violence is emerging as a serious law and order problem in India. By giving suitable examples, analyze the causes and consequences of such violence. **(2015)**

**Q.** We are witnessing increasing instances of sexual violence against women in the country. Despite existing legal provisions against it, the number of such incidences is on the rise. Suggest some innovative measures to tackle this menace. **(2014)**

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