



# Parliament Passes Bills To Replace British-era Criminal Laws

**For Prelims:** Bharatiya Nyaya (Second) Sanhita, 2023, Bharatiya Nagarik Suraksha (Second) Sanhita, 2023, Bharatiya Sakshya (Second) Bill, 2023, [Sedition](#), [Parliamentary Standing Committee](#), [Organized Crime](#), [Sexual Offences Against Women](#).

**For Mains:** Major Provisions of Bharatiya Nyaya (Second) Sanhita, 2023, Bharatiya Nagarik Suraksha (Second) Sanhita, 2023, Bharatiya Sakshya (Second) Bill, 2023, Government Initiatives Related to Criminal Justice System.

[Source: TH](#)

## Why in News?

The **Parliament** recently passed three pivotal Bills: **Bharatiya Nyaya (Second) Sanhita, 2023; Bharatiya Nagarik Suraksha (Second) Sanhita, 2023; and Bharatiya Sakshya (Second) Bill, 2023.**

- Following their introduction in August, 2023, the bills were referred to a 31-member [Parliamentary Standing Committee](#).

## What are the Major Provisions of Bharatiya Nyaya (Second) Sanhita, 2023?

The Bharatiya Nyaya Sanhita (Second) (BNS2) replaces the [Indian Penal Code, 1860](#) and introduces significant alterations including:

- **Retention and Incorporation of Offences:** The BNS2 maintains **existing IPC provisions on murder, assault, and causing hurt**, while incorporating new offenses like organized crime, terrorism, and group-related grievous hurt or murder. It also adds **community service** as a form of punishment.
  - **Terrorism:** Defined as **acts threatening the nation's integrity or causing terror among the populace**. Penalties range from death or life imprisonment to imprisonment with fines.
  - **Organized Crime:** Includes offenses like **kidnapping, extortion, financial scams, cybercrime, and more**. Punishments vary from life imprisonment to death, with fines for those committing or attempting organized crime.
  - **Mob Lynching:** BNS2 identifies **murder or severe injury by five or more individuals on specific grounds** (race, caste, etc.) as a punishable offence, carrying life imprisonment or death penalty.
- **Sexual Offences Against Women:** Retaining IPC sections on **rape, voyeurism, and other violations**, BNS2 raises the **age threshold for gangrape victims from 16 to 18 years**. Additionally, it criminalizes deceptive sexual acts or false promises.
- **Sedition Revisions:** BNS2 **eliminates the sedition offense**, replacing it with penalizing

activities related to **secession, armed rebellion, or actions endangering national sovereignty or unity** through various means.

- However, critics argue that despite the sedition law's alteration from 'rajdroh' to 'deshdroh,' concerns remain over its essence and application.
- **Death by Negligence:** The BNSS elevates the punishment for causing death by negligence **from two to five years under Section 304A of the IPC.**
  - However, it stipulates that doctors, if convicted, will still face the lower punishment of **two years** imprisonment.
- **Supreme Court Compliance:** Aligns with certain Supreme Court decisions by **excluding adultery as an offense** and introducing life imprisonment alongside the death penalty for murder or attempted murder by a life convict.

## Criticism of BNS2

- **Criminal Responsibility Age Discrepancy:** The age of criminal responsibility remains at seven years, with potential extension to 12 years based on the accused's maturity. This may conflict with international convention recommendations.
- **Inconsistencies in Child Offense Definitions:** While the BNS2 defines a child as someone below 18, the age threshold for several offenses against children differs. For instance, the age requirement for offenses like rape and gangrape varies, creating inconsistency.
- **Sedition Provisions and Sovereignty Concerns:** While the BNS2 eliminates sedition as an offense, elements related to endangering India's sovereignty, unity, and integrity might retain aspects of sedition.
- **Retention of IPC Provisions on Rape and Sexual Harassment:** The BNS2 retains the provisions of the IPC on rape and sexual harassment. It does not consider recommendations of the [Justice Verma Committee \(2013\)](#) such as making the offence of rape gender neutral and including [marital rape as an offence](#).

## What are the Major Provisions of Bharatiya Nagarik Suraksha (Second) Sanhita, 2023?

The **Bharatiya Nagarik Suraksha (Second) Sanhita, 2023 (BNSS2)** replaces the **Criminal Procedure Code, 1973 (CrPC)** and introduces significant alterations including:

- **Detention Conditions:** The BNSS2 alters rules for undertrials, **restricting release on personal bond for those accused in severe offenses**, including life imprisonment cases and individuals facing multiple charges.
- **Medical Examination:** It **broadens the scope of medical examinations**, allowing any police officer (not just a sub-inspector) to request one, making the process more accessible.
- **Forensic Investigation:** Mandates **forensic investigation for crimes punishable by at least seven years' imprisonment.**
  - It requires forensic experts to collect evidence at crime scenes, recording the process **electronically**. States lacking forensic facilities should utilize those in other states.
- **Sample Collection:** Extends the **power to collect finger impressions and voice samples**, even from individuals not under arrest, expanding beyond the CrPC's specimen signatures or handwriting orders.
- **Timelines:** The BNSS2 introduces strict timelines: **medical reports for rape victims within 7 days, judgments within 30 days (extendable to 45)**, victim progress updates within 90 days, and charge framing within 60 days from the first hearing.
- **Court Hierarchy:** The CrPC organizes India's criminal courts hierarchically, from Magistrate's Courts to the Supreme Court. It previously allowed cities with over a million people to have Metropolitan Magistrates, but the **BNSS2 eliminates this distinction and the role of Metropolitan Magistrates.**

## Criticism of BNSS2

- **Property Attachment from Crime Proceeds and Lack of Safeguards:** The power to seize property from crime proceeds lacks the **safeguards provided in the Prevention of Money Laundering Act**, raising concerns about potential misuse or lack of oversight.
- **Restrictions on Bail for Multiple Charges:** While the CrPC allows bail for an accused detained for **half the maximum imprisonment for an offense**, the BNSS2 denies this facility for individuals facing multiple charges.
  - This restriction, prevalent in cases involving multiple sections, may limit bail opportunities.
- **Handcuff Use and Contradictory Supreme Court Directives:** The BNSS2 permits the use of handcuffs in various cases, including organized crime, which contradicts directives laid down by the Supreme Court.
- **Integration of Trial Procedure and Public Order Maintenance:** The BNSS2 retains CrPC provisions related to the maintenance of public order. This raises questions about whether **trial procedures and the maintenance of public order should be regulated under the same law or addressed separately**.

## What are the Major Provisions of Bharatiya Sakshya (Second) Bill, 2023?

The Bharatiya Sakshya (Second) Bill, 2023 (BSB2) replaces the **Indian Evidence Act, 1872 (IEA)**. It retains most provisions of the IEA including those on **confessions, relevancy of facts, and burden of proof**. However, it introduces significant alterations including:

- **Documentary Evidence:**
  - **Definition Expansion:** The BSB2 **broadens the definition of documents to include electronic records** alongside traditional writings, maps, and caricatures.
  - **Primary and Secondary Evidence:** Primary evidence retains its status, encompassing original documents, electronic records, and video recordings.
    - **Oral and written admissions**, along with testimony from a qualified individual examining the documents, are now **considered secondary evidence**.
- **Oral Evidence:** The BSB2 **permits electronic provision of oral evidence**, enabling witnesses, accused individuals, and victims to testify through electronic means.
- **Admissibility of Electronic Records:** Electronic or digital records are granted **equivalent legal status as paper records**.
  - This includes information stored in **semiconductor memory, smartphones, laptops, emails, server logs, locational evidence**, and voicemails.
- **Amended Explanation to Joint Trials:** Joint trials encompass **cases where one accused is absent or has not responded to an arrest warrant**, now categorized as joint trials.

## Criticism of BSB2

- **Admissibility of Information from Accused in Custody:** The **BSB2** allows such information to be admissible if it was obtained when the **accused was in police custody**, but not if he was outside. The [Law Commission](#) recommended removing this distinction.
- **Unincorporated Law Commission Recommendations:** Several recommendations by the Law Commission, such as **presuming police responsibility for injuries sustained by an accused in police custody**, have not been included in the BSB2, despite their significance.
- **Tampering of Electronic Records:** The Supreme Court has recognised that electronic records may be tampered with.
  - While the BSB2 provides for the admissibility of such records, there are **no safeguards to prevent the tampering and contamination of such records** during the investigation process.

**Mains:**

**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)**

**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)**

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