

# Dispute Resolution Hotline

January 12, 2024

## NAVIGATING THROUGH CRIMINAL LAW REFORMS: PART I - REVIEW OF BHARATIYA NYAYA SANHITA, 2023

With an attempt to revamp the criminal justice system in India, the Parliament recently enacted Bharatiya Nyaya Sanhita, 2023 (**"BNS"**), Bharatiya Nagarik Suraksha Sanhita, 2023 (**"BNSS"**) and Bharatiya Sakshya Adhiniyam, 2023 (**"BSA"**). They repeal and replace the Indian Penal Code, 1860 (**"IPC"**),<sup>1</sup> Code of Criminal Procedure, 1973 (**"CrPC"**)<sup>2</sup> and the Evidence Act, 1872 (**"Evidence Act"**)<sup>3</sup> respectively. The bills were passed by the Parliament on 20 and 21 December 2023, which received the Presidential assent on 25 December 2023. However, the laws are yet to come into force, as the Central Government has not notified these enactments. In respect of BNS, Section 1(2) contemplates that different dates may be appointed for different provisions of the Sanhita, implying that the provisions of the statute may be notified in tranches.

In Part I of this series, we focus on BNS, which replaces the IPC, and see the major reforms introduced by BNS in the criminal law system. Part II and III will focus on the key changes sought to be introduced in the BNSS and BSA. In this part, we provide an overview and analyse the material changes introduced in the BNS, with focus on economic offences such as offences against property, offences of contempt of the authority of the public servant, organized crimes, etc.

## KEY CHANGES INTRODUCED IN THE BNS:

### Consolidation of provisions

- BNS has streamlined and consolidated the provisions under IPC, only containing 358 sections, compared to 511 sections under the IPC. This has been achieved by consolidating various provisions relating to the same offences, such as Section 317 of BNS consolidates all the provisions relating to stolen property under IPC, which were set out in Sections 410 to 414.
- BNS has consolidated similar provisions or provisions relating to similar offences in one place. Such as, all three inchoate offences, i.e., "attempt", "abetment" and "conspiracy", have been brought together under Chapter IV of the BNS. Earlier, "abetment" and "conspiracy" were covered from Section 109 to 120 and 120A & 120B in the IPC, and "attempt" was under Section 511 of IPC.

### Definitions and uniformity in language

- BNS has removed remnants of archaic language<sup>4</sup> or colonial references.<sup>5</sup>
- BNS also uniformly uses the term/expression "child"<sup>6</sup> in place of "minor" and "child under the age of eighteen years", and "person with unsound mind" in place of "insane", "lunatic", and "idiot".

### Abetment, conspiracy and attempt

- Abetment outside India for an offence committed or to be committed in India has also been criminalised under Section 48 of BNS. This expands the extra-territorial applicability of the BNS.

### Offences against property

- Definition of the offence of "theft" has been expanded to include theft of vehicle, theft from vehicle, theft of government property, idol, or icon from a place of worship.<sup>7</sup>
- Offence of "snatching" has been introduced under Section 304 of BNS. Theft will only amount to snatching if the theft is carried out in a sudden, quick or forcible manner.

### Offences against women and children

- All the offences against women and children have been brought under Chapter V of the BNS, which is followed by the offences affecting human body in Chapter VI.
- Various offences against women have been made gender-neutral in relation to the perpetrator, i.e., all genders can be penalised for committing offences.<sup>8</sup>

### Offences against human body

- The offence of attempt to commit suicide has been removed from the BNS. However, a new section has been added which criminalises the attempt to commit suicide to compel or restrain exercise of lawful power by a public servant.<sup>9</sup>
- A sub-category of culpable homicide has been introduced under Section 103 of the BNS, relating to mob-lynching.

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It criminalises and provides punishment for murder and/or grievous hurt by “group of five or more persons” based on victim’s “race, caste or community, sex, place of birth, language, personal belief or any other similar ground”.<sup>10</sup>

### *Organised crimes and terrorist acts*

- New offences of “organised crime”<sup>11</sup> and “petty organised crime”<sup>12</sup> have been introduced under the BNS. This is the first time “organised crime” has been recognised as an offence in a central legislation, which was so far regulated under state legislations such as Maharashtra Control of Organised Crime Act, 1999 and Gujarat Control of Terrorism and Organised Crime Act, 2015.
- Similarly, “terrorist act”<sup>13</sup> has been criminalised under the general criminal statute for the first time. “Terrorist act” has been criminalised under special statutes such as Unlawful Activities (Prevention) Act, 1967.

### *Offences against State*

- Section 124A of the IPC, which criminalised sedition, has been deleted. However, BNS has introduced a new offence in the same vein as sedition, namely, “acts endangering sovereignty, unity and integrity of India”.<sup>14</sup>

### *Offences against public tranquillity*

- Section 197(1)(d) of BNS criminalises the act of making or publishing false or misleading information which jeopardises the sovereignty, unity and integrity or security of India.

### *Key changes in punishments*

- For the first time in India, community service has been introduced as a punishment for certain offences under Section 4(f) of BNS. However, the same is limited to only six offences at the moment, namely, a public servant unlawfully engaging in trade,<sup>15</sup> non-appearance in response to a proclamation,<sup>16</sup> attempt to commit suicide to compel or restrain exercise of lawful power,<sup>17</sup> petty theft (of property less than INR 5,000/- in value) upon return of the property by a first time offender,<sup>18</sup> misconduct in public by a drunken person,<sup>19</sup> and defamation.<sup>20</sup>
- The BNS also seeks to balance the reformatory and deterrent approach to punishment. For example, for the offence of theft, community service has been prescribed as the punishment in case of first-time offence, where the stolen property was less than five thousand rupees in value, and has been restored.<sup>21</sup> However, in cases of second or subsequent convictions for the offence of theft, harsher punishments have been prescribed.<sup>22</sup>
- Mandatory minimum punishment introduced for certain offences as a deterrent. Some such offences are organised crime and its related offences,<sup>23</sup> terrorist act,<sup>24</sup> personating a public servant,<sup>25</sup> theft,<sup>26</sup> dacoity,<sup>27</sup> dishonest misappropriation of property and dishonest<sup>28</sup> or fraudulent removal or concealment of property to prevent distribution amongst the creditors,<sup>29</sup> etc.
- Imprisonment terms and/or fines have been enhanced for various offences. Some such offences are rioting,<sup>30</sup> giving false information with the intent to cause public servant to use his lawful power to cause injury to another person,<sup>31</sup> destruction of document or electronic record to prevent its production as evidence,<sup>32</sup> adulteration of drug,<sup>33</sup> sale of drug as a different drug or preparation,<sup>34</sup> absconding to avoid service of summons,<sup>35</sup> preventing service of summons,<sup>36</sup> etc.

### *Summary trial for certain offences*

- Offences such as theft of property not exceeding twenty thousand rupees in value, criminal intimidation, or offences relating to stolen property not exceeding twenty thousand rupees in value can be tried summarily in certain cases.

### *Positives from the BNS*

- Some of the changes introduced in the BNS are commendable, such as the use of technology and bringing it within the ambit of the penal statutes (by updating the definitions of certain offences), maintaining uniformity in the use of defined terms throughout the BNS, introduction of community service as punishment for petty offences. However, creating the necessary judicial infrastructure, and training of the personnel such as, magistrates and police officers, will be key in the implementation of these statutes.
- Further, deletion of sedition<sup>37</sup> shows that the Government is cognizant of the will of the general public. Deletion of sedition as an offence indicates a break away from the colonial origins of the Indian criminal law system.
- The introduction of community service as punishment for certain offences is a step in the right direction towards the reformatory approach to punishment

### *Missed opportunities*

- While community service has been introduced as a punishment under the BNS, it is limited to only six petty offences at the moment. Further, there are no guidelines or parameters to decide the manner and term for the punishment of community service.
- BNS missed the opportunity to decriminalise various offences, which can be considered as civil disputes. This was recommended by the Ministry of Home Affairs in 2007, in their Report of the Committee on Draft National Policy on Criminal Justice.<sup>38</sup> The offence of defamation under Section 356 of the BNS could have been left out, to be dealt as a civil dispute inter se the relevant parties.
- The new criminal statutes also missed the opportunity to introduce non-trial resolutions.<sup>39</sup> Non-trial resolutions help saving resources that would have been spent on the trial, and often lead to hefty financial settlements. This is a prevalent concept in many western countries, such as United States of America and United Kingdom. To introduce non-trial resolutions, BNS could have classified certain economic offences, such as bribery,<sup>40</sup> cheating,<sup>41</sup> dishonest removal or concealment of property,<sup>42</sup> making false documents,<sup>43</sup> etc., to be eligible for such process.

- BNS retains the minimum age of criminality as seven years (twelve years if the child is found to not have the ability to understand the nature and consequences of their actions). This is much lower than the minimum age of criminality in other jurisdictions. Further, this is also contrary to the Report of the Committee on the Rights of the Child, United Nations, which recommended setting the minimum age of criminal responsibility at twelve years.
- Various provisions of the BNS overlap with special laws, such as the Unlawful Activities (Prevention) Act, 1967, the state legislations on organised crimes, such as Maharashtra Control of Organised Crime Act, 1999 and Gujarat Control of Terrorism and Organised Crime Act, 2015. This means that there exists parallel procedures and mechanisms to try such offences. This leads to increase in the burden of compliances and costs. Further, this also adds to uncertainty in proceedings when trying such offences.

While the BNS has both positives and negatives, just like any new statute, it will have to be tested on the anvil of judicial scrutiny by courts.

**A DETAILED COMPARATIVE ANALYSIS OF THE PROVISIONS OF BNS VIS-À-VIS THE CORRESPONDING PROVISIONS OF THE IPC CAN BE FOUND BELOW:**

S. No.	Provisions of BNS	Corresponding Provisions in IPC	Comments
Applicability, definitions, and interpretation of the BNS			
1.	Section 1	Sections 1 to 5	The applicability of BNS is mostly similar to the provisions of the IPC.
2.	Section 2	Sections 6 to 52A.	<p>The BNS has consolidated and provided all the definitions for the terms used therein under Section 2. BNS also defines terms such as “child”, “transgender”, etc. which were undefined under the IPC.</p> <p>A “child” has been defined as any person below the age of eighteen years.<sup>44</sup> This has helped in providing the much-needed uniformity in the penal code. IPC had employed various different terms, such as “minor” or “child under the age of eighteen years”. The BNS has replaced all references to a “minor” or “child under the age of eighteen years” with “child”, as defined in the BNS.</p> <p>Further, “transgender”<sup>45</sup> has been defined to have the same meaning as under Section 2(k) of the Transgender Persons (Protection of Rights) Act, 2019.<sup>46</sup></p> <p>Definition of “India” under Section 18 of IPC has been removed under the BNS, which defined India to exclude the State of Jammu and Kashmir.<sup>47</sup></p> <p>Section 2(39) also consolidates all the definitions borrowed from the Information Technology Act, 2000 (“IT Act”) in the IPC, and provides that all word and expressions used but not defined in BNS, but which are defined in the IT Act, shall have the same meaning as the defined under the IT Act.<sup>48</sup> This will help in not only streamlining the statute, but also help in avoiding ambiguity in relation to undefined terms used in the BNS.</p>
3.	Section 3	Sections 6, 7, 27, 32, 34 to 38	Section 3 provides the general explanation on the interpretation of various expressions used in the BNS. No material changes have been made while incorporating the corresponding provisions of the IPC in the BNS.
Punishments under the BNS			
4.	Sections 4 to 13	Sections 53 to 55A, 57, 60, 63 to 75	<p>Section 4 of BNS, which provides the various punishments available under the statute, largely mirrors Section 53 of the IPC. BNS introduces “community service” as a punishment for certain petty offences.<sup>49</sup> While no definition is given in the BNS, “community service” has been defined in the BNSS as <i>“the 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.”</i><sup>50</sup> This introduces a reformative approach in the punishment scheme under BNS.</p> <p>However, community service has been prescribed only for 6 minor offences, namely, a public servant unlawfully engaging in trade,<sup>51</sup> non-appearance in response to a proclamation,<sup>52</sup> attempt to commit suicide to compel or restrain exercise of lawful power,<sup>53</sup> petty theft (of property less than INR 5,000/- in value) upon return of the property by a first time offender,<sup>54</sup> misconduct in public by a drunken person,<sup>55</sup> and defamation.<sup>56</sup> Further, the BNS is silent on the basis of sentencing community service or term to which a person may be sentenced to community service.</p> <p>Section 8 of BNS embodies Sections 63 to 70 of the IPC. It provides imprisonment in cases where a person defaults in payment of fine or in community service.<sup>57</sup> The monetary thresholds for the maximum fine have been enhanced in light of the enhancements in the fines across the BNS.<sup>58</sup></p>

## General exceptions in case of offences committed under the BNS

5.	Sections 14 to 33	Sections 76 to 95	These sections provide the general exceptions, whereby certain acts or acts of certain persons would not be offences under the BNS. These are broadly similar to the general exceptions under the IPC.
6.	Sections 34 to 44	Sections 96 to 106	These sections provide the general exception of right to private defence and are broadly similar to the provisions of the IPC. However, Sections 41 and 43 <sup>59</sup> replace the word “by night” with “after sunset and before sunrise”, in relation to housebreaking and right of private defence of property. <sup>60</sup>

## Inchoate offences: Abetment, Criminal Conspiracy and Attempt

7.	Sections 45 to 60	Sections 107 to 108, 108A, 109 to 120.	<p>These sections define and provide the punishment for abetment of an offence under the BNS.</p> <p>In a first, Section 48 of the BNS criminalises abetment outside India for commission of offences in India. Thus, person(s) outside India may also be held liable for abetting commission of offences in India.</p> <p>The punishment for abetment of commission of an offence by public or by more than 10 persons has been increased to imprisonment of either description up to 7 years, and also fine.<sup>61</sup> Under IPC, the punishment for the same offence was imprisonment up to 3 years, or fine, or both.<sup>62</sup></p>
8.	Sections 61 and 62	Sections 120A, 120B and 511	<p>Section 61 of BNS define and provide punishment for the offence of criminal conspiracy.<sup>63</sup></p> <p>Section 62 of BNS provides punishment for attempting to commit offences punishable with imprisonment for life or other imprisonment.<sup>64</sup></p> <p>No material changes have been made in this regard.</p>

## Organised crimes and terrorist acts

9.	Sections 111 to 112	-N/A-	<p>For the first time, BNS has introduced “organised crime” as an offence under a central law.<sup>65</sup> Until now, “organised crime” has only been governed by special legislations introduced by the states, such as the Maharashtra Control of Organised Crime Act, 1999 (“<b>MCOCA</b>”), Gujarat Control of Terrorism and Organised Crime Act, 2015 (“<b>GCTOCA</b>”), etc. The BNS draws heavily from these state legislations. Offence of “organised crime” requires any “continuing unlawful activity”<sup>66</sup> such as kidnapping, robbery, extortion, land grabbing, contract killing, economic offences, cyber-crime, etc., by any person or group of persons acting in concert, singly or jointly, as a member of an “organised crime syndicate”<sup>67</sup> or on behalf of the syndicate, by use of violence, threat of violence, intimidation, coercion or other unlawful means to obtain “direct or indirect material benefit including financial benefit”. However, the definition of “organised crime” is vague as it uses phrases such as “land grabbing”, “contract killing” and “cyber-crimes”, which have not been defined under the BNS. Further, while the term “economic offences” has been defined in Explanation (iii) to Section 111(1), it uses the phrases such as “hawala transactions” and “mass-marketing fraud”, which have not been defined under the BNS.</p> <p>Pursuant to the comments of the Parliamentary Standing Committee (“PSC”),<sup>68</sup> some modifications were made to these provisions. One of the comments in the PSC Report on BNS was that the provision did not differentiate between the actual commission of “organised crime” and an attempt to commit it and recommended a separate penal provision for the same.<sup>69</sup> This was incorporated in the BNS, under Section 111(3). However, the punishment provided for attempt<sup>70</sup> to commit “organised crime” is the same as the punishment for commission of “organised crime” which does not result in the death of any person.<sup>71</sup> Therefore, there is no practical difference between the commission of actual offence and the attempt to commit the same.</p> <p>BNS also creates another category of offence, namely, “petty organised crime”,<sup>72</sup> which is distinct from the “organised crime” discussed above. This does not find any mention in the existing state legislations such as MCOCA or GCTOCA. Unlike “organised crime”, Section 112 does not prescribe the requirements of “continuing unlawful activity” or obtaining “direct or indirect material benefit” from the crime. “Petty organised crime” has been defined as acts of theft, snatching, cheating, unauthorised selling of tickets, unauthorised betting or gambling, selling of public examination question papers or other similar criminal activities, committed by person, being a member of a group or a gang. Just like “organised crime”, “petty organised crime” also suffers from ambiguity due to the use of undefined terms such as “pick pocketing”, “card skimming”, etc. Moreover, Section 112 also</p>
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criminalises “other similar criminal activities”. Thus, the scope of offences covered under “petty organised crime” remains unbound.

However, offences such as theft<sup>73</sup> and snatching<sup>74</sup> have already been criminalised under BNS. Therefore, the interplay of Sections 112, 303 and 304 will have to be seen.

10. Section 113	-N/A-	<p>Section 113 defines and criminalises the offence of “terrorist act”. This is the first time “terrorist act” has been criminalised in a general statute, separate from the specialised legislations such as Unlawful Activities (Prevention) Act, 1967 (“UAPA”).</p> <p>“Terrorist act” has been defined as any act done with the intent to threaten or likely to threaten the unity, integrity, sovereignty, or economic security of India, or with the intent to strike terror or likely to strike terror in people or any section of people in India or in a foreign country.<sup>75</sup> Just like UAPA,<sup>76</sup> Section 113 recognises ordinary crimes (such as causing or likely to cause death or injury,<sup>77</sup> damage or destruction of property,<sup>78</sup> use of criminal force,<sup>79</sup> etc.) as “terrorist acts”, if done with a specific intent, as described above.<sup>80</sup></p> <p>Any person found guilty of committing terrorist acts shall be punished with death or imprisonment for life, and also a fine, if such acts resulted in death of any person,<sup>81</sup> or with imprisonment for a term not less than five years, but extendable up to life imprisonment, and also fine, in all other cases.<sup>82</sup> This is identical to the punishment for committing a terrorist act under the UAPA.<sup>83</sup> Similarly, both BNS and UAPA prescribe identical punishments for other offences relating to terrorist acts, such as conspiring, attempting to commit or abetting terrorist acts,<sup>84</sup> organising terrorist camps,<sup>85</sup> being member of organisation involved in terrorist acts,<sup>86</sup> voluntarily harbouring or concealing any person known to have committed a terrorist act,<sup>87</sup> and knowingly possessing any property derived or obtained from terrorist acts.<sup>88</sup></p> <p>As the UAPA is a special statute, it ought to take precedent over the BNS in relation to the offence of terrorist act. However, the BNS has empowered the officers not below the rank of Superintendent of Police to decide whether to register the case for terrorist acts under UAPA or BNS.<sup>89</sup> Depending upon which statute has been invoked, the procedure for the trial shall be governed by BNSS, or the procedure under the UAPA.<sup>90</sup></p>
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### Offences against the State

11. Sections 147 to 158	Sections 121 to 130	<p>One of the most crucial changes in offences against the state has been the deletion of the offence of sedition.<sup>91</sup></p> <p>However, BNS has introduced a new offence in the same vein as sedition, namely, “acts endangering sovereignty, unity and integrity of India”.<sup>92</sup> Section 152 penalises persons who excite or attempt to excite, secession or armed rebellion or subversive activities, or encourage feelings of separatist activities or endanger sovereignty or unity and integrity of India or indulges in or commits any such act.</p> <p>Section 152 also expressly includes the words “purposely or knowingly”, explicitly including the mens rea requirement for being held guilty for this offence.</p> <p>However, this provision does not specify or define the scope of activities which have been criminalised, which remain vague. This may have to be judicially tested once the BNS comes into force especially with the objective to safeguard and balance the freedom of speech and expression with public order.</p> <p>For instance, the dictionary definition of “subversive” or “to subvert” are intrinsically linked to the idea of any action that challenges or undermines an established authority.<sup>93</sup> This definition is extremely broad. Therefore, in absence of any set definition, one can only guess what nature of activities may be considered “subversive” under this provision, or the degree or extent of harm that may occur before an activity can be considered to be “subversive”. This would have to be read with the explanation to Section 152 which carves an exception for comments expressing disapprobation of actions of the government for bringing a change in the same through lawful means without exciting or attempting to excite the activities described in the section.</p> <p>We have seen in the past that the Supreme Court has struck down provisions or elements of a provision which are vague in nature.<sup>94</sup></p> <p>Further, Section 152 of the BNS expands the scope of the harm. Under Section 124A of the IPC, only actions that excited or attempted to excite hatred towards the “Government established by law in India” were criminalised. However, Section 152 criminalises all actions that endanger the sovereignty or unity and integrity of India or encourages separatist activities. This expands the scope of harm from actions</p>
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against the "Government established by law" to a generic reference to "India".

Section 152 also recognises electronic communication or use of financial means as acts that are criminalised under this provision. However, no thresholds have been laid out to determine what extent of electronic communication or use of financial means would attract this provision.

Further, the offences against allied states of India (such as waging war<sup>95</sup> or committing depredation on territories<sup>96</sup>) have been expanded from commission of such offences against "Asiatic Powers" to "Government of foreign states at peace with the Government of India".

No other material changes have been made to these provisions.

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### Offences against public tranquillity such as unlawful assembly, rioting, affray, etc.

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| 12. Sections 189 to 197 | Sections 141 to 153, 153A, 153B, 154 to 160 | <p>BNS introduces an additional ground while dealing with imputations, assertions prejudicial to national integration;<sup>97</sup> i.e., making or publishing false or misleading information which jeopardises the sovereignty, unity and integrity or security of India.</p> <p>Section 197 of the BNS includes electronic communication for commission of offences thereunder.</p> <p>The scope of the applicability of this provision is also uncertain, which may also impact any publisher of any such "false or misleading information".</p> <p>However, its implementation and effectiveness would depend on the interpretation of what constitutes "false or misleading" information "jeopardising the sovereignty, unity and integrity or security of India". The Bombay High Court is currently considering the constitutional validity of the Information Technology (Intermediary Guidelines and Digital Media Ethics Code) Amendment Rules, 2023 in the case of <i>Kunal Kamra v. Union of India</i>.<sup>98</sup> Rule 3(1)(b)(v) of these rules also refers similar phrases such as "false" and "misleading" for issuing directions for blocking of information identified by the government.</p> |
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### Contempt of lawful authority of public servants

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| 13. Sections 206 to 226 | Sections 172 to 174, 174A, 175 to 190 | <p>Chapter XIII of the BNS deals with the offences relating to contempt of lawful authority of public servants. This include offences such as absconding to avoid service of summons, omission to produce documents by persons legally bound to produce the same, furnishing false information, refusing to sign statements, etc. This corresponds to Chapter X of the IPC.</p> <p>One new provision has been added under this Chapter. Section 226 of BNS criminalises attempt to commit suicide to compel or restrain exercise of lawful power by a public servant. A person guilty under Section 226 shall be punished with a simple imprisonment for a term up to one year, or with fine, or both, or with community service.</p> <p>Other changes include enhanced punishments for offences such as in cases of absconding to avoid<sup>99</sup> or preventing<sup>100</sup> service of summons, non-attendance in obedience to an order from public servant,<sup>101</sup> etc., where the fine amounts have increased from five hundred rupees to five thousand rupees, and one thousand rupees to ten thousand rupees, respectively.</p> <p>Similarly, the fines for furnishing false information,<sup>102</sup> refusing oath when required by public servant<sup>103</sup> and refusing to answer to public servant<sup>104</sup> have from one thousand rupees to five thousand rupees. Fine for refusing to sign a statement<sup>105</sup> has been enhanced from five hundred rupees to three thousand rupees.</p> <p>Section 209<sup>106</sup> of BNS provides alternative punishment of community service for failing to appear in response to a proclamation for absconding persons under Section 84(1) of the BNSS, in additional to the imprisonment for a term up to three years, or fine, or both.</p> <p>Section 217<sup>107</sup> of the BNS enhances the punishment for providing false information with intent to cause public servant to use his lawful power to cause injury to another person. The punishment has been enhanced to imprisonment of either description for a term of up to one year, or fine up to ten thousand rupees, or both.<sup>108</sup></p> <p>Section 221<sup>109</sup> of BNS has enhanced the punishment for the offence of obstructing public servant in discharge of public functions. The offence is now punishable with imprisonment of either description for a term up to three months, or with fine up to two thousand five hundred rupees, or with both.</p> <p>Section 222<sup>110</sup> of BNS embodies Section 187 of the IPC, which penalised the offence of omitting to assist public servant when bound by law to give such</p> |
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assistance. BNS has enhanced the fine from two hundred rupees to two thousand five hundred rupees. However, in case where such assistance has been demanded by the public servant, who is legally competent to make such demand for the purpose of executing any process issued by court or to prevent commission of the offences listed in Section 222(b), the fine has been enhanced from five hundred rupees to five thousand rupees.<sup>111</sup>

Lastly, Section 223<sup>112</sup> of BNS (which embodies Section 188 of IPC) has enhanced the punishment for the offence of disobeying the order duly promulgated by a public servant. The punishment has been enhanced from imprisonment up to one month or fine up to two hundred rupees, to imprisonment up to six months or fine up to two thousand five hundred rupees, if such disobedience causes or tends to cause obstruction, annoyance or injury, or risk of obstruction, annoyance or injury, to any person.<sup>113</sup> However, in case such disobedience causes or tends to cause danger to human life, health, safety, or causes or tends to cause a riot or affray, punishment has been enhanced from imprisonment up to six months or fine up to one thousand rupees, to imprisonment up to one year or fine up to five thousand rupees.<sup>114</sup>

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#### **False evidence and offences against public justice**

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14. Sections 227 to 269      Sections 191 to 195, 195A, 196 to 216, 216A, 217 to 225, 225A, 225B, 227 to 229, 229A
- Chapter XIV of the BNS defines and provides punishments for offences against public justice, such as giving or fabricating false evidence, harbouring offenders, obtaining decrees for sum not due, etc. This corresponds to Chapter XI of the IPC.
- The provisions under this Chapter are largely similar to the provisions under IPC, with only enhanced punishments for various offences thereunder.
- Section 229 of the BNS embodies Section 193 of the IPC, which provided punishment for false evidence. If a person intentionally gives or fabricates false evidence to be used in any stage of judicial proceeding, the BNS now provides a maximum fine of up to ten thousand rupees.<sup>115</sup> In all other cases where a person gives or fabricates false evidence, the BNS provides a maximum fine of up to five thousand rupees.<sup>116</sup> Similarly, BNS now also provides a maximum fine of up to fifty thousand rupees for giving or fabricating false evidence with the intent to procure conviction in a capital offence,<sup>117</sup> and up to five thousand rupees for intentional omission to give information of offence by person bound to inform.<sup>118</sup>
- Punishments for destruction of document or electronic record to prevent its production as evidence<sup>119</sup> and fraudulent removal or concealment of property to prevent its seizure as forfeited or in execution<sup>120</sup> has been enhanced from imprisonment up to two years or fine (without any maximum limit), to imprisonment up to three years or fine up to five thousand rupees.
- BNS also provides enhanced punishment for false charge of offence made with intent to injure. If a person institutes or causes to be instituted any criminal proceeding against a person, knowing that there is no just or lawful ground for the same, punishment has been enhanced from imprisonment up to two year or fine (without any maximum limit) to imprisonment up to five years, or fine up to two lakh rupees.<sup>121</sup> However, if such false charge is of an offence punishable with death, imprisonment for life, or imprisonment for ten years or upwards, the imprisonment has been enhanced from seven years to ten years.<sup>122</sup>
- The fine for intentional insult or interruption to public servant sitting in judicial proceeding has been enhanced from one thousand rupees to five thousand rupees.<sup>123</sup>

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#### **Offences affecting the public health, safety, convenience, decency and morals**

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15. Sections 270 to 297      Sections 268 to 294, 294A
- Chapter XV of the BNS deals with offences affecting the public health, safety, convenience, decency and morals, such as public nuisance, negligent or malignant act to spread diseases, adulteration of food, drink, drugs, rash driving, etc. This Chapter corresponds to Chapter XIV of IPC.
- Section 290<sup>124</sup> of BNS deals with the offence of negligent conduct with respect to pulling down, repairing or constructing buildings, etc. While the IPC only provided punishments for negligent conduct in pulling down or repairing buildings, BNS has expanded the scope of this offence by including the construction of building within its ambit. Further, the punishment has been enhanced to imprisonment of either description for a term up to six months, or fine up to five thousand rupees, or both.<sup>125</sup>
- Another material change has been in Section 294<sup>126</sup> of BNS. Section 294 deals with sale, letting for hire, distribution, exhibition or circulation of obscene books, pamphlets, drawings, paintings, figures, etc. In addition to the physical/conventional display of these items, BNS now explicitly criminalises the display of such items in electronic form. Further, the punishment for this offence has also been enhanced. In

case of a first offence, a person shall be punished with imprisonment of either description for a term up to two years, and with fine up to five thousand rupees.<sup>127</sup> In case of second or subsequent offences, a person shall be punished with imprisonment of either description for a term up to five years, and with fine up to ten thousand rupees.<sup>128</sup>

Section 295<sup>129</sup> of BNS specifically deals with sale of obscene objects to child. IPC criminalised the sale of obscene objects to young adult under the age of twenty years.<sup>130</sup> However, BNS has used the term "child", which has been defined as a person under the age of eighteen years.<sup>131</sup>

BNS has enhanced the maximum fine amount from one thousand rupees to five thousand rupees for adulteration of food or drink intended for sale,<sup>132</sup> sale of noxious food or drink,<sup>133</sup> sale of adulterated drugs,<sup>134</sup> sale of drug as a different drug or preparation,<sup>135</sup> conveying person by water for hire in unsafe or overloaded vessel,<sup>136</sup> negligent conduct with respect to poisonous substance,<sup>137</sup> explosive substance,<sup>138</sup> machinery<sup>139</sup> and animals.<sup>140</sup>

BNS enhances the fine from two hundred rupees to one thousand rupees for public nuisance for cases which have not been provided under this Chapter.<sup>141</sup>

BNS now also provides a maximum fine of five thousand rupees and one thousand rupees for the continuance of nuisance after injunction against the nuisance,<sup>142</sup> and obscene acts and songs,<sup>143</sup> respectively.

Section 297<sup>144</sup> of BNS deals with the offence of keeping a lottery office. No changes in punishment has been made for keeping any office or place for the purpose of drawing lottery, not being state lottery.<sup>145</sup> However, the punishment for publishing any proposal to pay any sum, or to deliver any goods, or to do or forbear from doing anything for the benefit of any person, on any event or contingency relative or applicable to the drawing of any ticket, lot, number or figure in any such lottery, has been enhanced to a fine up to five thousand rupees.<sup>146</sup>

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### Offences against property

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16. Sections 303 to 307      Sections 378 to 382      These sections deal with the offence of theft.

The offence of theft has been defined in Section 303(1) of the BNS.<sup>147</sup> Further, the punishment for theft has been consolidated within sub-section (2) of Section 303<sup>148</sup> of the BNS. Section 303(2) of BNS also provides separate punishment for second or subsequent convictions for theft. In such a case, a person shall be punished with rigorous imprisonment for a term not less than one year, but which may extend to five years with fine. Thus, BNS introduces mandatory minimum punishment for such offences. Moreover, in cases where the value of the stolen property is less than five thousand rupees, the property has been restored and the person has been convicted for the first time, they shall be punished with community service.<sup>149</sup>

In a first, Section 304 of BNS defines the offence of 'snatching'. Theft would be snatching "if in order to commit theft, the offender suddenly or quickly or forcibly seizes or secures or grabs or takes away from any person or from his possession any movable property."<sup>150</sup> Therefore, theft will only amount to snatching if the theft is carried out in a sudden, quick or forcible manner. Any person found guilty of snatching shall be punished imprisonment of either description for a term up to three years and shall also be liable for a fine.<sup>151</sup>

Section 305 of BNS has also enhanced the scope of the offence of theft in a dwelling house by including "means of transport or place of worship".<sup>152</sup>

17. Section 308      Sections 383 to 389      Section 308 of BNS has consolidated all the provisions relating to the offence of extortion. Section 308(1)<sup>153</sup> of BNS defines the offence of "extortion". Additional illustration (e) has been added. Illustration (e) provides an example of extortion through electronic messages, to bring the definition of the offence up to date with the latest technologies.

Section 308(2)<sup>154</sup> of BNS provides the punishment for the offence of extortion. The punishment has been enhanced to imprisonment of either description for a term up to seven years, or fine, or both.

18. Sections 309 to 313      Sections 390 to 402      These sections have consolidated the various provisions in relation to robbery and dacoity.

Section 310(3)<sup>155</sup> of BNS has enhanced the punishment for dacoity with murder to death, or imprisonment for life, or rigorous imprisonment for a term not less than ten years, and also fine. Thus, BNS introduces mandatory minimum punishment for



19. Sections 314 to 315	Sections 403 to 404	<p>These sections deal with the criminal misappropriation of property.</p> <p>Section 314<sup>156</sup> of BNS has enhanced the punishment for dishonest misappropriation of property to imprisonment of either description for a term not less than six months, but may extend up to two years, and fine. Thus, BNS introduces mandatory minimum punishment for such offences.</p> <p>No other material changes have been made to these provisions.</p>
20. Section 316	Sections 405 to 409	<p>Section 316 of BNS has consolidated all the provisions relating to the offence of criminal breach of trust. The punishment for criminal breach of trust has been enhanced to imprisonment of either description for a term up to five years, or fine, or both.<sup>157</sup></p> <p>No other material changes have been made to these provisions.</p>
21. Section 317	Sections 410 to 414	<p>Section 317 of BNS has consolidated all the provisions for the offences relating to stolen property.</p> <p>Section 317(1)<sup>158</sup> of BNS has added the offence of cheating as one of the methods of acquiring a stolen property, in addition to theft, extortion and robbery.</p> <p>No other material changes have been made to these provisions.</p>
22. Sections 318 to 319	Sections 415 to 420	<p>These sections deal with the offence related to cheating. Section 318(2)<sup>159</sup> of BNS enhances the punishment for cheating to imprisonment of either description for a term up to three years, or fine, or both.</p> <p>Similarly, Section 318(3)<sup>160</sup> of BNS enhances the punishment for cheating with knowledge that wrongful loss may be caused to the person whose interest the offender is bound to protect. The enhanced punishment is imprisonment of either description for a term up to five years, or fine, or both.<sup>161</sup></p> <p>Section 319<sup>162</sup> of BNS deals with the offence of cheating by personation. Section 319(2)<sup>163</sup> of the BNS enhances the punishment for cheating by personation to imprisonment of either description for a term up to five years, or fine, or both.</p> <p>No other material changes have been made to these provisions.</p>
23. Sections 320 to 323	Sections 421 to 424	<p>These sections deal with the offences relating to fraudulent deeds and disposition of property.</p> <p>Section 320<sup>164</sup> of BNS has enhanced the punishment for the offence of dishonest or fraudulent removal or concealment of property to prevent distribution among creditors. The enhanced punishment is imprisonment of either description for a term not less than six months, but which may extend up to two years, or fine, or both. Thus, BNS introduces mandatory minimum punishment for such offences.<sup>165</sup></p> <p>The punishments for dishonest or fraudulent execution of deed of transfer containing false statement of consideration<sup>166</sup> and dishonest or fraudulent removal or concealment of property<sup>167</sup> have been enhanced from a term of imprisonment from up to two years to three years, in addition to fine.</p> <p>No other material changes have been made to these provisions.</p>
24. Sections 324 to 328	Sections 425 to 440	<p>These sections deal with the offences relating to mischief.</p> <p>Section 324 defines<sup>168</sup> and provides the punishment for mischief.<sup>169</sup> The punishment has been enhanced to imprisonment of either description for a term up to six months, or fine, or both.<sup>170</sup></p> <p>Section 324(3) adds a new provision and provides punishment for committing mischief and thereby causing loss or damage to any property including property of Government or Local Authority. Any person found guilty under Section 324(3) shall be punished with imprisonment of either description for a term up to one year, or fine, or both.</p> <p>Sub-sections (4) and (5) of Section 324<sup>171</sup> of the BNS provide for the revised monetary threshold of the loss and damage to property caused by mischief for ascertaining the punishment.</p> <p>Section 326<sup>172</sup> of BNS consolidates various provisions under IPC that dealt with mischief by injury, inundation, fire or explosive substance, etc.</p> <p>Section 326(f)<sup>173</sup> of BNS has removed the monetary threshold in relation to the property subject to mischief. Section 435 of IPC provided punishment only in relation to mischief causing damage to any property to the amount of one hundred</p>

rupees or upwards, and in case of agricultural produce, ten rupees or upwards.

25. Sections 329 to 334	Sections 441 to 443, 445, 447 to 462	<p>These sections deal with the offences relating to criminal trespass.</p> <p>Section 329 has consolidated the provisions on criminal trespass,<sup>174</sup> house-trespass<sup>175</sup> and the punishment for criminal trespass<sup>176</sup> and house-trespass.<sup>177</sup></p> <p>Section 329(3) has enhanced the punishment for criminal trespass to imprisonment of either description for a term up to three months, or fine up to five thousand rupees, or both.<sup>178</sup></p> <p>Similarly, Section 329(4) has enhanced the punishment for house-trespass to imprisonment of either description for a term up to one year, or fine up to five thousand rupees, or both.<sup>179</sup></p> <p>Section 330 of BNS defines lurking house-trespass and house breaking.<sup>180</sup></p> <p>The term “night” in Section 331 in relation to house-trespass and house breaking have been replaced with “after sunset and before sunrise”.</p>
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#### Offences relating to document and to property marks

26. Sections 335 to 344	Sections 463 to 477, 477A	<p>These sections deal with the offences relating to document, such as making a false document, forgery, forgery of court records, valuable security, etc.</p> <p>Section 337<sup>181</sup> of BNS now specifically provides that the forgery of identity documents issued by Government, including voter identity card or Aadhaar Card is a punishable offence.</p> <p>Section 341<sup>182</sup> of BNS consolidates the provisions relating to making or possessing counterfeit seal, etc., with intent to commit forgery punishable under Section 338 of BNS. Section 341 also introduces two new provisions, namely Section 341(3) and (4).</p> <p>Section 341(3) of BNS provides punishment for possessing any seal, plate or other instrument knowing the same to be counterfeit. The punishment for the same is imprisonment of either description for a term up to three years, and also fine.</p> <p>Section 341(4) provides that whoever, fraudulently or dishonestly uses as genuine, any seal, plate or other instrument, knowing or having reasons to believe the same to be counterfeit shall be punished in the same manner as if he had made or counterfeited such seal, plate or instrument.<sup>183</sup></p>
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#### Criminal intimidation, insult, annoyance, defamation, etc.

27. Sections 351 to 355	Sections 503 to 508, 510	<p>These sections deal with criminal intimidation, insult, annoyance, etc.</p> <p>Section 353<sup>184</sup> of BNS provides the punishment for statements conducing to public mischief. In addition to statements, rumours or reports, Section 353 now also criminalises making, publishing or circulating “false information”. Further, to keep up with the advancing technology, Section 353 specifically criminalises the making, publishing or circulating of such statement, false information, rumour, or report through electronic means.</p>
28. Section 356	Sections 499 to 502	<p>This section consolidates the provisions relating to the offence of defamation. In addition to the punishment of simple imprisonment for a term up to two years, or fine, or both, Section 356(2)<sup>185</sup> of BNS also prescribes community service as an alternative punishment for defamation. This is one of the six offences that are punishable by community service under the BNS.</p>

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You can direct your queries or comments to the authors.

<sup>1</sup>Bharatiya Nyaya Sanhita, 2023, Section 358

<sup>2</sup>Bharatiya Nagarik Suraksha Sanhita, 2023, Section 531.

<sup>3</sup>Bharatiya Sakshya Adhinyam, 2023, Section, 170.

<sup>4</sup>The references to archaic expressions such as “lunatic”, “insane” and “idiot” have been replaced with “person with unsound mind” or cognate terms. For example, see Bharatiya Nyaya Sanhita, 2023, Sections 27, 28, 46 & 107; Corresponding provision in Indian Penal Code, 1100%, Section 89, 90, 108 & 305, respectively.

<sup>5</sup>The remnants of terms such as “Queen”, “British India”, “Justice of the Peace”, etc. have been removed from BNS (for example, see Bharatiya Nyaya Sanhita, 2023, Section 356: Defamation; Corresponding provision in the Indian Penal Code, 1100%, Section 499). Further, the definition of “Year” and “Month” has been revised from being understood according to the “British Calendar” to the “Gregorian Calendar”; See Bharatiya Nyaya Sanhita, 2023, Section 2(20); Corresponding provision in Indian Penal Code, 1100%, Section 49.

<sup>6</sup>Bharatiya Nyaya Sanhita, 2023, Section 2(3): "child" means any person below the age of eighteen years.

<sup>7</sup>Bharatiya Nyaya Sanhita, 2023, Section 305.

<sup>8</sup>Bharatiya Nyaya Sanhita, 2023, Section 69: Sexual intercourse by employing deceitful means, etc.; Bharatiya Nyaya Sanhita, 2023, Section 74: Assault or use of criminal force to woman with intent to outrage her modesty; Bharatiya Nyaya Sanhita, 2023, Section 76: Assault or use of criminal force to woman with intent to disrobe; Bharatiya Nyaya Sanhita, 2023, Section 77: Voyeurism; Bharatiya Nyaya Sanhita, 2023, Section 79: Word, gesture or act intended to insult modesty of a woman.

<sup>9</sup>Bharatiya Nyaya Sanhita, 2023, Section 226.

<sup>10</sup>Bharatiya Nyaya Sanhita, 2023, Section 103(2).

<sup>11</sup>Bharatiya Nyaya Sanhita, 2023, Section 111.

<sup>12</sup>Bharatiya Nyaya Sanhita, 2023, Section 112.

<sup>13</sup>Bharatiya Nyaya Sanhita, 2023, Section 113.

<sup>14</sup>Bharatiya Nyaya Sanhita, 2023, Section 152.

<sup>15</sup>The Bharatiya Nyaya Sanhita, 2023, Section 202.

<sup>16</sup>The Bharatiya Nyaya Sanhita, 2023, Section 209.

<sup>17</sup>The Bharatiya Nyaya Sanhita, 2023, Section 226.

<sup>18</sup>The Bharatiya Nyaya Sanhita, 2023, Section 303.

<sup>19</sup>The Bharatiya Nyaya Sanhita, 2023, Section 355.

<sup>20</sup>The Bharatiya Nyaya Sanhita, 2023, Section 356.

<sup>21</sup>The Bharatiya Nyaya Sanhita, 2023, Section 303(2), proviso.

<sup>22</sup>The Bharatiya Nyaya Sanhita, 2023, Section 303(2): For second or subsequent convictions of theft, punishment has been enhanced to imprisonment of either description for a term up to five years, and with fine up to ten thousand rupees.

<sup>23</sup>Bharatiya Nyaya Sanhita, 2023, Sections 111(2)(b), (3) & (4): Minimum punishment for committing organized crime other than which results in death of a person, or abetting organized crime, or being a member of an organized crime syndicate is imprisonment for a term of five years; Bharatiya Nyaya Sanhita, 2023, Section 111(5), (6) & (7): Minimum punishment for harbouring member of organized crime syndicate, possessing property derived from organized crime, or on behalf of a member of organized crime syndicate is imprisonment for a term of three years; Bharatiya Nyaya Sanhita, 2023, Section 112(2): Minimum punishment for petty organised crime is imprisonment for a term of one year.

<sup>24</sup>Bharatiya Nyaya Sanhita, 2023, Sections 113(2)(b), (3) & (4): Minimum punishment for committing terrorist acts other than which results in death of a person, or abetting terrorist act, or organising camps for terrorist acts is imprisonment for a term of five years; Bharatiya Nyaya Sanhita, 2023, Section 113(6): Minimum punishment for harbouring persons who have committed terrorist acts is imprisonment for a term of three years.

<sup>25</sup>Bharatiya Nyaya Sanhita, 2023, Section 204: Minimum punishment for personating a public servant is imprisonment for six months.

<sup>26</sup>Bharatiya Nyaya Sanhita, 2023, Section 303(2): Minimum punishment for second or subsequent convictions for theft is imprisonment for a term of one year.

<sup>27</sup>Bharatiya Nyaya Sanhita, 2023, Section 310(3): Minimum punishment for dacoity with murder is imprisonment for a term of ten years.

<sup>28</sup>Bharatiya Nyaya Sanhita, 2023, Section 314: Minimum punishment for dishonest misappropriation of property is imprisonment for a term of six months.

<sup>29</sup>Bharatiya Nyaya Sanhita, 2023, Section 320: Minimum punishment for fraudulent removal or concealment of property to prevent distribution amongst the creditors is imprisonment for a term of six months.

<sup>30</sup>Bharatiya Nyaya Sanhita, 2023, Section 191(3); Corresponding provision in the Indian Penal Code, 1100%, Section 148(3); The punishment has been enhanced from imprisonment up to three years to five years.

<sup>31</sup>Bharatiya Nyaya Sanhita, 2023, Section 217; Corresponding provision in the Indian Penal Code, 1100%, Section 182; The punishment has been enhanced from imprisonment up to a term of 6 months or fine up to one thousand rupees, or both, to imprisonment up to a term of one year, or fine up to ten thousand rupees, or both.

<sup>32</sup>Bharatiya Nyaya Sanhita, 2023, Section 241; Corresponding provision in the Indian Penal Code, 1100%, Section 204; The punishment has been enhanced from imprisonment up to a term of two years, or fine, or both, to imprisonment up to a term of three years, or fine up to five thousand rupees, or both.

<sup>33</sup>Bharatiya Nyaya Sanhita, 2023, Section 276; Corresponding provision in the Indian Penal Code, 1100%, Section 274; The punishment has been enhanced from imprisonment up to a term of six months, or fine up to one thousand rupees, or both, to imprisonment up to a term of one year, or fine up to five thousand rupees, or both.

<sup>34</sup>Bharatiya Nyaya Sanhita, 2023, Section 278; Corresponding provision in the Indian Penal Code, 1100%, Section 276; The fine has been enhanced from a maximum fine of one thousand rupees to five thousand rupees.

<sup>35</sup>Bharatiya Nyaya Sanhita, 2023, Section 206; Corresponding provision in Indian Penal Code, 1100%, Section 172: The fine amounts have increased from five hundred rupees to five thousand rupees, and one thousand rupees to ten thousand rupees, respectively.

<sup>36</sup>Bharatiya Nyaya Sanhita, 2023, Section 207; Corresponding provision in Indian Penal Code, 1100%, Section 173: The fine amounts have increased from five hundred rupees to five thousand rupees, and one thousand rupees to ten thousand rupees, respectively.

<sup>37</sup>Indian Penal Code, 1100%, Section 124A.

<sup>38</sup>Ministry of Home Affairs, Report of the Committee on Draft National Policy on Criminal Justice, July 2007, available at [https://www.mha.gov.in/sites/default/files/2022-09/DraftPolicyPaperAug\\_4%5B1%5D.pdf](https://www.mha.gov.in/sites/default/files/2022-09/DraftPolicyPaperAug_4%5B1%5D.pdf) (last accessed on 09 January 2024).

<sup>39</sup>Non-trial resolutions are agreements between the accused and the prosecution to resolve a criminal matter without a full trial on its merits. For example, deferred prosecution agreements (DPAs) are entered between a corporate accused of an offence, and the prosecutor. Under DPAs, the prosecutors will bring charges against the corporates, but will not proceed, or defer the prosecution for a definite period, subject to the corporate meeting certain requirements such as payment of fines, or compensation, implementation of corporate compliance program, etc.

<sup>40</sup>Bharatiya Nyaya Sanhita, 2023, Section 170.

<sup>41</sup>Bharatiya Nyaya Sanhita, 2023, Section 318.

<sup>42</sup>Bharatiya Nyaya Sanhita, 2023, Section 323.

<sup>43</sup>Bharatiya Nyaya Sanhita, 2023, Section 335.

<sup>44</sup>Bharatiya Nyaya Sanhita, 2023, Section 2(3).

<sup>45</sup>Bharatiya Nyaya Sanhita, 2023, Section 2(10), Explanation.

<sup>46</sup>Transgender Persons (Protection of Rights) Act, 2019, Section 2(k): “transgender person” means a person whose gender does not match with the gender assigned to that person at birth and includes trans-man or trans-woman (whether or not such person has undergone sex reassignment Surgery or hormone therapy or laser therapy or such other therapy), person with intersex variations, genderqueer and person having such socio-cultural identities as kinner, hijra, aravani and jogta’.

<sup>47</sup>Indian Penal Code, 1100%, Section 18 “India”.– “India” means the territory of India excluding the State of Jammu and Kashmir.

<sup>48</sup>Bharatiya Nyaya Sanhita, 2023, Section 2(39).

<sup>49</sup>Bharatiya Nyaya Sanhita, 2023, Section 4(f).

<sup>50</sup>Bharatiya Nagarik Suraksha Sanhita, 2023, Section 23 (explanation).

<sup>51</sup>Bharatiya Nyaya Sanhita, 2023, Section 202.

<sup>52</sup>Bharatiya Nyaya Sanhita, 2023, Section 209.

<sup>53</sup>Bharatiya Nyaya Sanhita, 2023, Section 226.

<sup>54</sup>Bharatiya Nyaya Sanhita, 2023, Section 303.

<sup>55</sup>Bharatiya Nyaya Sanhita, 2023, Section 355.

<sup>56</sup>Bharatiya Nyaya Sanhita, 2023, Section 356.

<sup>57</sup>Bharatiya Nyaya Sanhita, 2023, Section 8.

<sup>58</sup>Corresponding provision in Indian Penal Code, 1100%, Section 67; Bharatiya Nyaya Sanhita, 2023, Section 8(5)(a): Court shall not impose an imprisonment for a term exceeding two months where fine amount does not exceed five thousand rupees; Bharatiya Nyaya Sanhita, 2023, Section 8(5)(b): Court shall not impose an imprisonment for a term exceeding four months where fine amount does not exceed ten thousand rupees; Bharatiya Nyaya Sanhita, 2023, Section 8(5)(c): Court shall not impose imprisonment an imprisonment for a term exceeding one year in any other case.

<sup>59</sup>Corresponding provision in Indian Penal Code, 1100%, Sections 103 and 105.

<sup>60</sup>Bharatiya Nyaya Sanhita, 2023, Sections 41(b) and 43(e).

<sup>61</sup>Bharatiya Nyaya Sanhita, 2023, Section 57.

<sup>62</sup>Indian Penal Code, 1100%, Section 117.

<sup>63</sup>Corresponding provisions in Indian Penal Code, 1100%, Sections 120A and 120B.

<sup>64</sup>Corresponding provisions in Indian Penal Code, 1100%, Section 511.

<sup>65</sup>Bharatiya Nyaya Sanhita, 2023, Section 111.

<sup>66</sup>Bharatiya Nyaya Sanhita, 2023, Section 111, Explanation (ii): It has been defined as any activity which is prohibited by law and is a cognizable offence punishable with imprisonment of three years or more. Further, it also requires that more than one chargesheet must have been filed in relation to such offence before a competent Magistrate within the preceding period of 10 years, and the Court has taken cognizance of the same.

<sup>67</sup>Bharatiya Nyaya Sanhita, 2023, Section 111, Explanation (i): It has been defined as “a group of two or more persons, who, singly or jointly, as a syndicate or gang indulge in “continuing unlawful activity”.

<sup>68</sup>Department-related Parliamentary Standing Committee on Home Affairs, *Two Hundred Forty Sixth Report on Bharatiya Nyaya Sanhita, 2023*, Rajya Sabha, Parliament of India, 10 November 2023, pgs. 32-34.

<sup>69</sup>Department-related Parliamentary Standing Committee on Home Affairs, *Two Hundred Forty Sixth Report on Bharatiya Nyaya Sanhita, 2023*, Rajya Sabha, Parliament of India, 10 November 2023, pg. 34, cl. 3.21.5.

<sup>70</sup>Bharatiya Nyaya Sanhita, 2023, Section 111(3): imprisonment for a term not less than 5 years, and which may extend to imprisonment for life, and fine, which shall not be less than five lakh rupees.

<sup>71</sup>Bharatiya Nyaya Sanhita, 2023, Section 111(2)(b): imprisonment for a term not less than 5 years, and which may extend to imprisonment for life, and fine, which shall not be less than five lakh rupees.

<sup>72</sup>Bharatiya Nyaya Sanhita, 2023, Section 112.

<sup>73</sup>Bharatiya Nyaya Sanhita, 2023, Section 303.

<sup>74</sup>Bharatiya Nyaya Sanhita, 2023, Section 304.

<sup>75</sup>Bharatiya Nyaya Sanhita, 2023, Section 113(1).

<sup>76</sup>Unlawful Activities (Prevention) Act, 1967, Section 15.

<sup>77</sup>Bharatiya Nyaya Sanhita, 2023, Section 113(1)(a)(i).

<sup>78</sup>Bharatiya Nyaya Sanhita, 2023, Section 113(1)(a)(ii)&(v).

<sup>79</sup>Bharatiya Nyaya Sanhita, 2023, Section 113(1)(b).

<sup>80</sup>Bharatiya Nyaya Sanhita, 2023, Section 113(1).

<sup>81</sup>Bharatiya Nyaya Sanhita, 2023, Section 113(2)(a).

<sup>82</sup>Bharatiya Nyaya Sanhita, 2023, Section 113(2)(b).

<sup>83</sup>Unlawful Activities (Prevention) Act, 1967, Section 16.

<sup>84</sup>Bharatiya Nyaya Sanhita, 2023, Section 113(3); Corresponding provision in Unlawful Activities (Prevention) Act, 1967, Section 18; Both statutes prescribe imprisonment for a term not less than five years, but extendable up to imprisonment for life, and also fine.

<sup>85</sup>Bharatiya Nyaya Sanhita, 2023, Section 113(4); Corresponding provision in Unlawful Activities (Prevention) Act, 1967, Section 18A; Both statutes prescribe imprisonment for a term not less than five years, but extendable up to imprisonment for life, and also fine.

<sup>86</sup>Bharatiya Nyaya Sanhita, 2023, Section 113(5); Corresponding provision in Unlawful Activities (Prevention) Act, 1967, Section 20; Both statutes prescribe imprisonment for a term which may extend to imprisonment for life, and also fine.

<sup>87</sup>Bharatiya Nyaya Sanhita, 2023, Section 113(6); Corresponding provision in Unlawful Activities (Prevention) Act, 1967, Section 19; Both statutes prescribe imprisonment for a term not less than three years, but extendable up to imprisonment for life, and also fine.

<sup>88</sup>Bharatiya Nyaya Sanhita, 2023, Section 113(7); Corresponding provision in Unlawful Activities (Prevention) Act, 1967, Section 21; Both statutes prescribe imprisonment for a term not less than five years, but extendable up to imprisonment for life, and also fine.

<sup>89</sup>Bharatiya Nyaya Sanhita, 2023, Section 113, Explanation.

<sup>90</sup>Unlawful Activities (Prevention) Act, 1967, Section 43C: Section 43C states that the provision of the CrPC only shall to the extent they

are not inconsistent with the provisions of UAPA, to all arrests, searches and seizures made under the UAPA.

<sup>91</sup>Indian Penal Code, 1100%, Section 124A.

<sup>92</sup>Bharatiya Nyaya Sanhita, 2023, Section 152.

<sup>93</sup>See Cambridge Dictionary, *subversive*, available at <https://dictionary.cambridge.org/dictionary/english/subversive> (last accessed on 06 January 2024); See also, The Britannica Dictionary, *subversive*, available at <https://www.britannica.com/dictionary/subversive> (last accessed on 06 January 2024); See also, Oxford Learner's Dictionary, *subversive*, available at [https://www.oxfordlearnersdictionaries.com/definition/english/subversive\\_2](https://www.oxfordlearnersdictionaries.com/definition/english/subversive_2) (last accessed on 06 January 2024).

<sup>94</sup>In *Shreya Singhal v. Union of India*, (2015) 5 SCC 1, the Supreme Court had held Section 66A of the Information Technology Act, 2000 to be unconstitutional. One of the primary grounds for the same was that the provision employed vague and legally undefined terms such as "grossly offensive or of menacing character", "ill will", "enmity", etc.

<sup>95</sup>Bharatiya Nyaya Sanhita, 2023, Section 153; Corresponding provision in Indian Penal Code, 1100%, Section 125.

<sup>96</sup>Bharatiya Nyaya Sanhita, 2023, Section 154; Corresponding provision in Indian Penal Code, 1100%, Section 126.

<sup>97</sup>Bharatiya Nyaya Sanhita, 2023, Section 197; Indian Penal Code, 1100%, Section 153B.

<sup>98</sup>*Kunal Kama v. Union of India*, WP(L)/9792/2023, Bombay High Court.

<sup>99</sup>Bharatiya Nyaya Sanhita, 2023, Section 206; Corresponding provision in Indian Penal Code, 1100%, Section 172.

<sup>100</sup>Bharatiya Nyaya Sanhita, 2023, Section 207; Corresponding provision in Indian Penal Code, 1100%, Section 173.

<sup>101</sup>Bharatiya Nyaya Sanhita, 2023, Section 208; Corresponding provision in Indian Penal Code, 1100%, Section 174.

<sup>102</sup>Bharatiya Nyaya Sanhita, 2023, Section 212; Corresponding provision in Indian Penal Code, 1100%, Section 177.

<sup>103</sup>Bharatiya Nyaya Sanhita, 2023, Section 213; Corresponding provision in Indian Penal Code, 1100%, Section 178.

<sup>104</sup>Bharatiya Nyaya Sanhita, 2023, Section 214; Corresponding provision in Indian Penal Code, 1100%, Section 179.

<sup>105</sup>Bharatiya Nyaya Sanhita, 2023, Section 215; Corresponding provision in Indian Penal Code, 1100%, Section 180.

<sup>106</sup>Bharatiya Nyaya Sanhita, 2023, Section 209: Non-appearance in response to a proclamation under section 84 of Bharatiya Nagarik Suraksha Sanhita, 2023; Corresponding provision in Indian Penal Code, 1100%, Section 174A.

<sup>107</sup>Bharatiya Nyaya Sanhita, 2023, Section 217: False information, with intent to cause public servant to use his lawful power to injury of another person; Corresponding provision in Indian Penal Code, 1100%, Section 182.

<sup>108</sup>The punishment under Section 182 of IPC was imprisonment of either description for a term of up to six months, or fine up to one thousand rupees, or both.

<sup>109</sup>Corresponding provision in Indian Penal Code, 1100%, Section 186: The punishment under IPC was imprisonment of either description for a term up to three months, or with fine up to five hundred rupees, or with both.

<sup>110</sup>Corresponding provision in Indian Penal Code, 1100%, Section 187.

<sup>111</sup>The punishment under Section 187 of IPC was simple imprisonment for a term up to six months, or fine up to five hundred rupees, or both.

<sup>112</sup>Corresponding provision in Indian Penal Code, 1100%, Section 188.

<sup>113</sup>Bharatiya Nyaya Sanhita, 2023, Section 223(a); Corresponding provision in Indian Penal Code, 1100%, Section 188.

<sup>114</sup>Bharatiya Nyaya Sanhita, 2023, Section 223(b); Corresponding provision in Indian Penal Code, 1100%, Section 188.

<sup>115</sup>Bharatiya Nyaya Sanhita, 2023, Section 229(1); Section 193 of IPC did not specify any maximum fine for this offence.

<sup>116</sup>Bharatiya Nyaya Sanhita, 2023, Section 229(2); Section 193 of IPC did not specify any maximum fine for this offence.

<sup>117</sup>Bharatiya Nyaya Sanhita, 2023, Section 230; Corresponding provision in Indian Penal Code, 1100%, Section 194: IPC did not provide any maximum fine.

<sup>118</sup>Bharatiya Nyaya Sanhita, 2023, Section 239; Corresponding provision in Indian Penal Code, 1100%, Section 202: IPC did not provide any maximum fine.

<sup>119</sup>Bharatiya Nyaya Sanhita, 2023, Section 241; Corresponding provision in Indian Penal Code, 1100%, Section 204.

<sup>120</sup>Bharatiya Nyaya Sanhita, 2023, Section 243; Corresponding provision in Indian Penal Code, 1100%, Section 206.

<sup>121</sup>Bharatiya Nyaya Sanhita, 2023, Section 248(a); Corresponding provision under Indian Penal Code, 1100%, Section 211.

<sup>122</sup>Bharatiya Nyaya Sanhita, 2023, Section 248(b); Corresponding provision under Indian Penal Code, 1100%, Section 211.

<sup>123</sup>Bharatiya Nyaya Sanhita, 2023, Section 267; Corresponding provision in Indian Penal Code, 1100%, Section 228.

<sup>124</sup>Corresponding provision in Indian Penal Code, 1100%, Section 288.

<sup>125</sup>The punishment under Section 288 of IPC was imprisonment of either description for a term up to six months, or fine up to one thousand rupees, or both.

<sup>126</sup>Corresponding provision under Indian Penal Code, 1100%, Section 292.

<sup>127</sup>The punishment under Section 292 of IPC was imprisonment of either description for a term up to two years, and fine up to two thousand rupees.

<sup>128</sup>The punishment under Section 292 of IPC was imprisonment of either description for a term up to five years, and fine up to five thousand rupees.

<sup>129</sup>Corresponding provision in Indian Penal Code, 1100%, Section 293.

<sup>130</sup>Indian Penal Code, 1100%, Section 293.

<sup>131</sup>Bharatiya Nyaya Sanhita, 2023, Section 2(3).

<sup>132</sup>Bharatiya Nyaya Sanhita, 2023, Section 274; Corresponding provision in Indian Penal Code, 1100%, Section 272.

<sup>133</sup>Bharatiya Nyaya Sanhita, 2023, Section 275; Corresponding provision in Indian Penal Code, 1100%, Section 273.

<sup>134</sup>Bharatiya Nyaya Sanhita, 2023, Section 277; Corresponding provision in Indian Penal Code, 1100%, Section 275.

<sup>135</sup>Bharatiya Nyaya Sanhita, 2023, Section 278; Corresponding provision in Indian Penal Code, 1100%, Section 276.

<sup>136</sup>Bharatiya Nyaya Sanhita, 2023, Section 284; Corresponding provision in Indian Penal Code, 1100%, Section 282.

- <sup>137</sup> Bharatiya Nyaya Sanhita, 2023, Section 286; Corresponding provision in Indian Penal Code, 1100%, Section 284.
- <sup>138</sup> Bharatiya Nyaya Sanhita, 2023, Section 288; Corresponding provision in Indian Penal Code, 1100%, Section 286.
- <sup>139</sup> Bharatiya Nyaya Sanhita, 2023, Section 289; Corresponding provision in Indian Penal Code, 1100%, Section 287.
- <sup>140</sup> Bharatiya Nyaya Sanhita, 2023, Section 291; Corresponding provision in Indian Penal Code, 1100%, Section 289.
- <sup>141</sup> Bharatiya Nyaya Sanhita, 2023, Section 292; Corresponding provision in Indian Penal Code, 1100%, Section 290.
- <sup>142</sup> Bharatiya Nyaya Sanhita, 2023, Section 293; Corresponding provision in Indian Penal Code, 1100%, Section 291.
- <sup>143</sup> Bharatiya Nyaya Sanhita, 2023, Section 296; Corresponding provision in Indian Penal Code, 1100%, Section 294.
- <sup>144</sup> Corresponding provision in Indian Penal Code, 1100%, Section 294A.
- <sup>145</sup> Bharatiya Nyaya Sanhita, 2023, Section 297(1).
- <sup>146</sup> Bharatiya Nyaya Sanhita, 2023, Section 297(2); The punishment under Section 294A of IPC was fine up to one thousand rupees.
- <sup>147</sup> Corresponding provision in Indian Penal Code, 1100%, Section 378.
- <sup>148</sup> Corresponding provision in Indian Penal Code, 1100%, Section 379.
- <sup>149</sup> Bharatiya Nyaya Sanhita, 2023, Section 303(2), Proviso.
- <sup>150</sup> Bharatiya Nyaya Sanhita, 2023, Section 304(1).
- <sup>151</sup> Bharatiya Nyaya Sanhita, 2023, Section 304(2).
- <sup>152</sup> Corresponding provision in Indian Penal Code, 1100%, Section 380.
- <sup>153</sup> Corresponding provision in Indian Penal Code, 1100%, Section 383.
- <sup>154</sup> Corresponding provision in Indian Penal Code, 1100%, Section 384: The punishment under Section 384 of IPC was imprisonment of either description for a term up to three years, or fine, or both.
- <sup>155</sup> Corresponding provision in Indian Penal Code, 1100%, Section 396: The punishment under Section 396 of IPC was death, or imprisonment for life, or rigorous imprisonment for a term up to ten years and also fine.
- <sup>156</sup> Corresponding provision in Indian Penal Code, 1100%, Section 403: The punishment under Section 403 of IPC was imprisonment of either description for a term up to two years, or fine, or both.
- <sup>157</sup> Bharatiya Nyaya Sanhita, 2023, Section 316(2); Corresponding provision in Indian Penal Code, 1100%, Section 406: The punishment under Section 406 of IPC was imprisonment of either description for a term up to three years, or fine, or both.
- <sup>158</sup> Corresponding provision in Indian Penal Code, 1100%, Section 410.
- <sup>159</sup> Corresponding provision in Indian Penal Code, 1100%, Section 417: The punishment under Section 417 of IPC was imprisonment of either description for a term up to one year, or fine, or both.
- <sup>160</sup> Corresponding provision in Indian Penal Code, 1100%, Section 418.
- <sup>161</sup> The punishment under Section 418 of IPC was imprisonment of either description for a term up to three years, or fine, or both.
- <sup>162</sup> Corresponding provision in Indian Penal Code, 1100%, Sections 416, 419.
- <sup>163</sup> Corresponding provision in Indian Penal Code, 1100%, Section 419: The punishment under Section 419 of IPC was imprisonment of either description for a term up to three years, or fine, or both.
- <sup>164</sup> Corresponding provision in Indian Penal Code, 1100%, Section 421.
- <sup>165</sup> The punishment under Section 421 of IPC was imprisonment of either description for a term up to two years, or fine, or both.
- <sup>166</sup> Bharatiya Nyaya Sanhita, 2023, Section 322: Dishonest or fraudulent execution of deed of transfer containing false statement of consideration; Corresponding provision in Indian Penal Code, 1100%, Section 423.
- <sup>167</sup> Bharatiya Nyaya Sanhita, 2023, Section 323: Dishonest or fraudulent removal or concealment of property; Corresponding provision in Indian Penal Code, 1100%, Section 424.
- <sup>168</sup> Bharatiya Nyaya Sanhita, 2023, Section 324(1); Corresponding provision in Indian Penal Code, 1100%, Section 425.
- <sup>169</sup> Bharatiya Nyaya Sanhita, 2023, Section 324(2); Corresponding provision in Indian Penal Code, 1100%, Section 426.
- <sup>170</sup> The punishment under Section 426 of IPC was imprisonment of either description for a term up to three months, or fine, or both.
- <sup>171</sup> Corresponding provision of Indian Penal Code, 1100%, Section 427.
- <sup>172</sup> Corresponding provision in Indian Penal Code, 1100%, Sections 430 to 436.
- <sup>173</sup> Corresponding provision in Indian Penal Code, 1100%, Section 435.
- <sup>174</sup> Bharatiya Nyaya Sanhita, 2023, Section 329(1); Corresponding provision in Indian Penal Code, 1100%, Section 441.
- <sup>175</sup> Bharatiya Nyaya Sanhita, 2023, Section 329(2); Corresponding provision in Indian Penal Code, 1100%, Section 442.
- <sup>176</sup> Bharatiya Nyaya Sanhita, 2023, Section 329(3); Corresponding provision in Indian Penal Code, 1100%, Section 447.
- <sup>177</sup> Bharatiya Nyaya Sanhita, 2023, Section 329(4); Corresponding provision in Indian Penal Code, 1100%, Section 448.
- <sup>178</sup> The punishment under Section 447 of IPC was imprisonment of either description for a term up to three months, or fine up to five hundred rupees, or both.
- <sup>179</sup> The punishment under Section 448 of IPC was imprisonment of either description for a term up to one year, or fine up to one thousand rupees, or both.
- <sup>180</sup> Bharatiya Nyaya Sanhita, 2023, Sections 330(1)&(2); Corresponding provision in Indian Penal Code, 1100%, Sections 443 & 445 respectively. Sections 444 (Lurking house-trespassing by night) and 446 (House breaking by night) have been removed from BNS.
- <sup>181</sup> Corresponding provision in Indian Penal Code, 1100%, Section 466.
- <sup>182</sup> Corresponding provision in Indian Penal Code, 1100%, Sections 472, 473.
- <sup>183</sup> Punishment for making or counterfeiting seal, plate or other such instrument is provided in Section 341(1) and (2) of Bharatiya Nyaya Sanhita, 2023.
- <sup>184</sup> Corresponding provision in Indian Penal Code, 1100%, Section 505.



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