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Quick Revision Notes(QRN) : BNS for CLAT PG

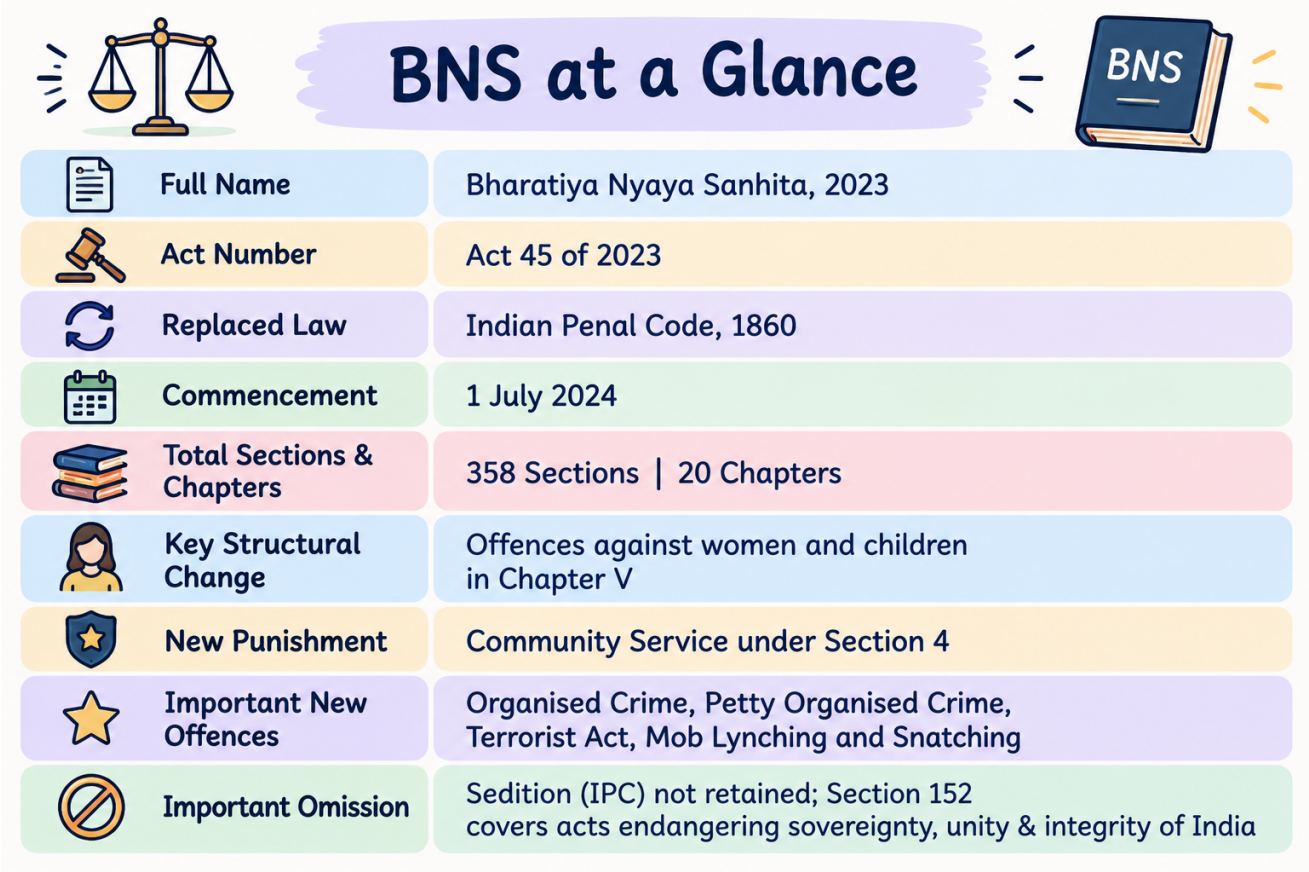
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Introduction

What changed when India moved from the Indian Penal Code, 1860 to the Bharatiya Nyaya Sanhita, 2023? The change was not limited to replacing the word “IPC” with “BNS”. For a broader overview of BNS see CLATalogue's post on Understanding the Bharatiya Nyaya Sanhita, 2023. The new criminal law rearranged offences, introduced community service, added offences such as organised crime and mob lynching, and changed the language of some important provisions.

The Bharatiya Nyaya Sanhita, 2023, commonly called the BNS, received Presidential assent on 25 December 2023. It came into force on **1 July 2024** and replaced the IPC, 1860. It is **Act No. 45** of 2023 and contains **358 sections** arranged in **20 chapters**. **Section 106(2)**, dealing with aggravated hit-and-run cases, was not brought into force with the rest of the Sanhita. Students should always check the latest commencement notifications before relying on this position.

The purpose of these BNS quick revision notes is not to reproduce every section. Instead, the article covers the chapters and provisions most useful for CLAT PG, judiciary and other law examinations. Older Supreme Court decisions under the IPC are also included where the wording or legal principle remains relevant. However, a case decided under the IPC should not be treated as a direct ruling on a new BNS provision without comparing the statutory language.



Chapter I: Preliminary provisions (Sections 1 to 3) under BNS

Section 1 deals with the short title, commencement and application of the BNS. It covers offences committed within India and certain offences committed outside India where Indian law applies.

Section 2 contains definitions. It is an important starting point because words such as "**child**", "**document**", "**electronic communication**", "**dishonestly**", "**fraudulently**", "**person**" and "**voluntarily**" affect the meaning of later offences.

Section 3 contains general explanations. It carries forward several familiar criminal-law ideas, including joint liability, acts done by several persons in furtherance of common intention, and the effect of acts or omissions.

Mens Rea

The usual rule is that criminal liability requires a guilty act, a guilty mind and a causal connection between the act and the prohibited result. The maxim is ***actus non facit reum nisi mens sit rea*** which states that an act does not make a person guilty unless the mind is also guilty. The

requirement may be excluded where the statute creates strict liability or clearly indicates otherwise.

According to the Supreme Court in State of Maharashtra v. Mayer Hans George, mens rea is not an essential ingredient of all statutory offenses. The court must examine the language, object and scheme of the statute. This principle remains useful while reading BNS provisions.

In *Nathulal v. State of Madhya Pradesh*, the supreme court also treated mens rea as the important part of criminal liability unless the statute excludes it expressly or by necessary implication.

Chapter II: Punishments (Sections 4 to 13)

Section 4 lists the punishments under BNS. They include:

1. Death,
2. Imprisonment for life,
3. Imprisonment, which may be rigorous or simple,
4. Forfeiture of property,
5. Fine, and
6. Community service.

The inclusion of community service is one of the most discussed changes. It gives courts a non-custodial punishment for selected less serious offences. It does not mean that community service is available for every offence. The relevant provision and the sentencing facts must be examined.

Sections 5 to 13 deal with commutation, calculation of punishment, rigorous or simple imprisonment, fines, imprisonment in default of fine and limits on punishment where an act amounts to more than one offence.

For death penalty questions, remember Machhi Singh v. State of Punjab, where the Supreme Court developed the "**rarest of rare**" approach. The sentencing court must consider both aggravating and mitigating circumstances. In Manoj v. State of Madhya Pradesh, the Court had emphasized the need for a meaningful inquiry into mitigation before the imposition of the death sentence.

Chapter III: General exceptions and private defence (Sections 14 to 44)

This chapter covers situations in which an act that appears criminal is not an offence because the law recognises a valid defence. Important areas include:

- Acts done by a person bound by law,
- Acts of a judge acting judicially,
- Accident,
- Necessity,
- Acts of children,
- Unsoundness of mind,
- Involuntary and voluntary intoxication,
- Consent and good-faith acts,
- Acts done under threats, and
- The right of private defence.

Unsoundness of Mind and Intoxication

The relevant question is whether the accused, at the time of the act, was incapable of understanding the nature of the act or that it was wrong or contrary to law. In Srikant Anandrao Bhosale v. State of Maharashtra, the Supreme Court examined the defence of mental illness and the burden involved in proving the exception.

Basdev v State of Pepsu is a significant case regarding intoxication. The mere being intoxicated, voluntarily, does not exempt a person from criminal liability. The court must consider the intention necessary and the evidence as to the mental state of the accused.

Private Defence

The right of private defence protects the body and property, but it is not a right of retaliation. The force used must remain connected with the threat faced. In Darshan Singh v. State of Punjab, the Supreme Court summarised the principles i.e. a person need not wait to suffer the first blow, but the response cannot be wholly disproportionate to the danger.

Chapter IV: Abetment, criminal conspiracy and attempt (Sections 45 to 62)

This chapter deals with inchoate offences, meaning offences connected with the preparation or participation in another offence.

- **Abetment**: Section 45 covers instigation, conspiracy followed by illegal act or omission and intentional aid.
- **Abetment to commit outside India**: Section 48 is important as it provides for abetment outside India for the commission of the offense in India.
- **Criminal conspiracy**: Section 61 covers conspiracy to do an illegal act or the act lawful in itself but done in an illegal way.
- **Attempt**: Section 62 deals with attempt to commit an offense where the offense is punishable with imprisonment for life or with imprisonment without any separate punishment for the offense shall be an offense.

It has been held by the Supreme Court in State of Tamil Nadu v. Nalini that direct evidence of a conspiracy is rarely available. Consequently, conspiracy is often proved by the circumstances in the course of natural events. Merely proving an association or knowledge or meeting of minds is not sufficient. In *Yogesh v. State of Maharashtra*, the court reiterated that the agreement is commonly proved by circumstances. Therefore it is important for the prosecution to prove a mutual agreement or the meeting of minds occurred.

In State of Maharashtra v. Mohd. Yakub, the Court discussed the difference between preparation and attempt. Preparation generally remains outside criminal liability, but the law punishes an act that moves sufficiently close to the commission of the offence.

Chapter V: Offences against women and children (Sections 63 to 99)

BNS brings these offences together in one chapter. Important provisions include:

- Section 63: rape and its exceptions,
- Sections 64 and 65: punishment for rape and rape of a woman below specified ages,
- Section 66: causing death or a persistent vegetative state of a victim,

- Section 69: sexual intercourse by deceitful means or a false promise to marry, where the conduct does not amount to rape,
- Section 70: gang rape,
- Sections 74 to 79: assault or criminal force against women, including sexual harassment, disrobing, voyeurism and stalking,
- Section 80: dowry death,
- Sections 85 and 86: cruelty by a husband or relative and the meaning of cruelty,
- Section 95: hiring, employing or engaging a child to commit an offence,
- Section 96: procuration of a child, and
- Section 98: selling a child for prostitution or other immoral purposes.

Section 69 is a new and exam-relevant provision. It is different from rape because it applies where sexual intercourse is obtained through deceitful means or a promise to marry made without the intention of fulfilling it, but the facts do not satisfy the definition of rape. "**Deceitful means**" includes false promises of employment or promotion and marrying by suppressing identity.

In Independent Thought v. Union of India, the Supreme Court read the age of consent and child-protection provisions in a manner consistent with the protection of minors. The statutory exception relating to a wife does not protect sexual acts with a wife below 18 years of age. For a related contemporary issue concerning the marital rape exception read about *Hrishikesh Sahoo* case.

For evidence and trial questions involving sexual offences, State of Punjab v. Gurmit Singh remains important. Courts must approach the testimony of a sexual-offence victim with sensitivity and should not demand unnecessary corroboration as an inflexible rule.

Chapter VI: Offences affecting the human body (Sections 100 to 146)

This chapter includes offences against life, hurt, wrongful restraint, wrongful confinement, assault, kidnapping, abduction, slavery and forced labour.

Culpable Homicide and Murder

Section 100 defines culpable homicide. **Section 101** defines murder, while **Section 103** provides punishment for murder. **Section 103(2)** creates a specific rule for murder by a group of five or more persons acting in concert on grounds such as race, caste, community, sex, place of birth, language or personal belief. This provision is commonly discussed as the BNS mob-lynching provision.

Section 105 deals with culpable homicide not amounting to murder and introduces a minimum punishment in the relevant category. To distinguish murder from culpable homicide, revise State of Andhra Pradesh v. Rayavarapu Punnayya and Virsa Singh v. State of Punjab. These cases explain the relationship between the two offences and the "**intention to cause a particular bodily injury**" test.

Causing death by negligence

Section 106(1) covers causing death by a rash or negligent act that does not amount to culpable homicide. It also provides a separate punishment where the act is committed by a registered medical practitioner during a medical procedure. **Section 106(2)**, concerning certain hit-and-run situations, was kept out of operation when BNS commenced.

Chapter VII: Offences against the State (Sections 147 to 158)

Section 152 punishes acts that purposely or knowingly excite or attempt to excite secession, armed rebellion or subversive activities, or encourage feelings of separatist activity, or endanger the sovereignty, unity and integrity of India. The provision also contains a protection for lawful criticism of government measures when it is aimed at changing them through lawful means.

Students should not equate Section 152 mechanically with IPC Section 124A. The language is different, and the statutory ingredients must be read independently. Still, Kedar Nath Singh v. State of Bihar is important for the constitutional principle that criticism or strong political dissent cannot be criminalised unless it has the required connection with violence or public disorder. Vinod Dua v. Union of India also illustrates the protection available to legitimate criticism of the government.

New Organised and Terror-Related offences (Sections 111 to 113)

Section 111 deals with organised crime. It covers continuing unlawful activity by a person or group, including activities such as kidnapping, robbery, vehicle theft, extortion, land grabbing, contract killing, economic offences, cyber-crimes and trafficking, when the statutory conditions are satisfied.

Section 112 creates the offence of petty organised crime. It covers repeated group or gang-based conduct such as theft, snatching, cheating, unauthorised selling of tickets, betting or gambling, and selling examination question papers, subject to the section's requirements.

Section 113 deals with terrorist acts. It is important to read this provision with other special laws, especially the Unlawful Activities (Prevention) Act, 1967. The prosecution must establish the ingredients of the specific provision invoked; a serious label alone does not prove a terrorist act.

These are comparatively new BNS provisions. Direct precedent for these under the BNS will develop over time. Till then courts may use older decisions on conspiracy, common intention, organised criminal conduct and terrorism, but the wording of **Section 111**, **112** or **113** must be applied carefully.

Chapter XI: Offences against public tranquillity (Sections 187 to 197)

This chapter covers unlawful assembly, rioting, promoting enmity and related offences. **Section 187** concerns unlawful assembly and **Section 189** deals with rioting and related liability. Revise the difference between common intention and common object. In *Lalji v. State of U.P.*, the court held that once membership and the common object are established, every member may be liable for an offence committed in prosecution of that object, even if that member did not perform the final act.

In *Mizaji v. State of Uttar Pradesh*, the Supreme Court explained that every member of an unlawful assembly need not commit the final act. Liability under common object depends on the object of the assembly and the accused's membership with the required knowledge.

Chapter XVII: Offences against property (Sections 303 to 334)

This is one of the most frequently tested BNS chapters.

- **Section 303**: theft,

- **Section 304**: snatching,
- **Section 308**: extortion,
- **Section 309**: robbery and dacoity,
- **Section 314**: dishonest misappropriation of property,
- **Section 316**: criminal breach of trust,
- **Section 318**: cheating,
- **Section 319**: cheating by personation,
- **Sections 324** to **326**: mischief, and
- **Sections 329** to **334**: criminal trespass and house-trespass.

The important distinction is that theft involves taking movable property dishonestly without consent, while extortion involves putting a person in fear of injury and dishonestly inducing delivery of property. Robbery is aggravated theft or extortion, and dacoity is robbery committed by five or more persons all together.

For cheating, Hridaya Ranjan Prasad Verma v. State of Bihar explains the intention to cheat must be present at the time of making the promise and at the time of inducing. Failure to keep a promise later does not necessarily constitute cheating.

State of Gujarat v. Jaswantlal Nathalal related to the concept of entrustment and use or disposal of property dishonestly in the crime of Criminal Breach of Trust. Even a temporary moving of property may amount to taking if other ingredients are there, as held in Pyare Lal Bhargava v. State of Rajasthan.

Chapters XVIII to XX: Documents, intimidation, defamation and repeal

Chapter XVIII deals with offences relating to documents and property marks. It is especially relevant to false documents, forgery and electronic records.

Chapter XIX includes criminal intimidation, insult, annoyance, defamation and breach of contract to attend to the needs of a helpless person. **Section 356** deals with defamation. In Subramanian Swamy v. The UOI Supreme Court upheld criminal defamation by constitutionally balancing reputation and freedom of speech.

Section 358 deals with saving and repealing provision. It repeals the IPC but protects previous operations, liabilities, penalties, investigations and proceedings in appropriate cases. For examinations, always consider the rule against retrospective penal liability i.e. a person cannot be punished under a later and more burdensome penal provision for an act committed before that provision came into force.

Conclusion

The Bharatiya Nyaya Sanhita is now the main substantive criminal law of India. For CLAT PG students, the most efficient approach is to understand its structure, identify the new provisions and revise the settled principles that continue to guide criminal law interpretation.

The most important BNS revision areas are general exceptions, punishment and community service, abetment and conspiracy, offences against women and children, murder and culpable homicide, negligence, organised crime, terrorist acts, offences against the State and property offences.