

NEW CRIMINAL CODE IN INDIA

The Parliament of India has enacted three new criminal laws, the “Bharatiya Nyaya Sanhita,” the “Bharatiya Nagarik Suraksha Sanhita,” and the “Bharatiya Sakshya Adhinyam,” which have replaced the Indian Penal Code (IPC), the Code of Criminal Procedure (CrPC), and the Indian Evidence Act respectively, effective from 1 July 2024. The new codes have brought about many changes to the existing law and also introduced newer laws which are relevant in deterring the offence of human trafficking and assisting victims.

JVI has created charts that can be helpful in identifying the old provisions and their current equivalent

Provision under the Bharatiya Nyaya Sanhita, 2023 [BNS]

Offences Against Women

Old Section (IPC)	New Section (BNS)	Offence	Changes
375	63	Rape	Age of Consent: 15 years is replaced by 18 years in BNS. Exception 2 of Section 63 states that “sexual intercourse or acts by a man with his wife, the wife not being under 18 years of age, is not rape”.
376(1) & 376(2)	64	Punishment for rape.	Word “military” is replaced with “army”.
376(3)	65(1)	Punishment for rape in certain cases- rape on a woman under sixteen years.	No Change.
376AB	65(2)	Punishment for rape in certain cases- rape on a woman under twelve years.	Section is included as sub-section in BNS sans heading.
376A	66	Punishment for causing death or resulting in persistent vegetative state of victim.	No Change.
376B	67	Sexual intercourse by husband upon his wife during separation.	No Change.
376C	68	Sexual intercourse by a person in authority.	No Change.
376(D)	70(1)	Gang rape.	No Change except IPC section is included as subsection in BNS.
376DB	70(2)	Gang rape on women under the age of eighteen.	In 376DB IPC, the age of the victim is 12 years, and punishment is the death penalty. In 70(2) BNS, the age of the victim is under 18 years, and punishment is the death penalty. Section is included as a sub-section in BNS, sans heading.
376E	71	Punishment for repeat offenders.	No Change.
228A (1)/(2)	72	Disclosure of identity of victim of certain offences etc.	Word “minor” is replaced by ‘child’.

228A(3)	73	Printing or publishing any matter relating to court proceedings without permission.	Sub-section of IPC is treated as individual section in BNS with heading.
354	74	Assault or use of criminal force to woman with intent to outrage her modesty.	No Change.
354A	75	Sexual harassment.	No Change.
354B	76	Assault or use of criminal force to woman with intent disrobe.	Words “Any man who” is replaced by “Whoever”.
354C	77	Voyeurism	Words “Any man who” is replaced by “Whoever”.

Offences Against Children

Old Section (IPC)	New Section (BNS)	Offence	Changes
317	93	Exposure and abandonment of child under twelve years of age, by parent or person having care of it.	No Change.
366(A)	96	Procuration of Child	The term ‘child’ has replaced ‘minor’ and ‘young person’ in many sections in as Section of 2 (3) of the BNS defines ‘Child’ as any person below the age of eighteen years.
372	98	Selling child for purpose of prostitution, etc.	No Change.
373	99	Buying child for purposes of prostitution, etc	The term ‘child’ has replaced ‘minor’. Increased punishment which may extend to fourteen years.
361	137	Kidnapping	Removed distinction between minor girl and boy. Kidnapping of boys and girls below 18 constitutes an offence.
366(B)	141	Importation of girl or boy from foreign country	Included boy in definition making the victim gender neutral
293	295	Sale, etc., of obscene objects to child	Replaced young person with child
367	140 (4)	Kidnapping or abducting in order to subject person to grievous hurt, slavery, etc.	No Change except IPC section is included as subsection in BNS.

Offence of Human Trafficking

Old Section (IPC)	New Section (BNS)	Offence	Changes
370	143	Trafficking of person	Recognizes ‘begging’ as a form of exploitation for trafficking
370(A)	144	Exploitation of a trafficked person.	No Change.
371	145	Habitual dealing in slaves	No Change.
374	146	Unlawful compulsory labour	No Change.

New Provisions under BNS

Section 48	Abetment outside India for offence in India	Whoever hires, employs or engages any child to commit an offence shall be punished with imprisonment of either description which shall not be less than three years but which may extend to ten years, and with fine; and if the offence be committed shall also be punished with the punishment provided
Section 69	Sexual intercourse by employing deceitful means etc.	Whoever, by deceitful means or by making promise to marry to a woman without any intention of fulfilling the same, has sexual intercourse with her, such sexual intercourse not amounting to the offence of rape, shall be punished with imprisonment of either description for a term which may extend to ten years and shall also be liable to fine. Explanation. — “deceitful means” shall include inducement for, or false promise of employment or promotion, or marrying by suppressing identity.
Section 95	Hiring, employing or engaging a child to commit an offence	Whoever hires, employs or engages any child to commit an offence shall be punished with imprisonment of either description which shall not be less than three years but which may extend to ten years, and with fine; and if the offence be committed shall also be punished with the punishment provided for that offence as if the offence has been committed by such person himself.
Section 111	Organized Crime	Any continuing unlawful activity including kidnapping, robbery, vehicle theft, extortion, land grabbing, contract killing, economic offence, cyber-crimes, trafficking of persons , drugs, weapons or illicit goods or services, human trafficking for prostitution or ransom , by any person or a group of persons acting in concert, singly or jointly, either as a member of an organised crime syndicate or on behalf of such syndicate, by use of violence, threat of violence, intimidation, coercion, or by any other unlawful means to obtain direct or indirect material benefit including a financial benefit , shall constitute organised crime.
Section 111(2)	Punishment of Organized Crime	Whoever commits organised crime shall,— (a) if such offence has resulted in the death of any person, be punished with death or imprisonment for life, and shall also be liable to fine which shall not be less than ten lakh rupees; (b) in any other case, be punished with imprisonment for a term which shall not be less than five years but which may extend to imprisonment for life, and shall also be liable to fine which shall not be less than five lakh rupees.

Provisions under Bharatiya Nagarik Suraksha Sanhita, 2023

Comparative Chart of relevant provisions

Old Section (CrPC)	New Section (BNSS)	Provison	Changes
2(1)(wa)	2(1)(y)	Definition of Victim	Definition of victim broadened to eliminate the requirement of the accused person being formally charged. This modification expedites the process of victims receiving compensation entitled to them in certain cases.
154	173	Information in cognizable cases	# Zero FIR incorporated into law. # information of cognizable offence may be given orally or by electronic communication . In case of information given by electronic communication, it shall be taken on record by officer-in-charge on being signed within three days by the person giving it. # The right of the victim to get a free of cost copy of FIR forthwith introduced.
161	180	Examination of witnesses by police	No change
164	183	Recording of confessions and statements	# The word ‘Metropolitan Magistrate or Judicial Magistrate’ is replaced by ‘Magistrate’. # Section 164 (5A) is replaced by Section 193 (6A) i.e. In cases punishable under section 64, section 65, section 66, section 67, section 68, section 69, section 70, section 71, section 74, section 75, section 76, section 77, section 78, section 79 or section 124 of the Bharatiya Nyaya Sanhita, 2023, the Magistrate shall record the statement of the person against whom such offence has been committed in the manner specified in sub-section (5), as soon as the commission of the offence is brought to the notice of the police: *New Inclusion- Provided that such statement shall, as far as practicable, be recorded by a woman Magistrate and in her absence by a male Magistrate in the presence of a woman: Provided further that in cases relating to the offences punishable with imprisonment for ten years or more or with imprisonment for life or with death, the Magistrate shall record the statement of the witness brought before him by the police officer:
173	193	Report of police officer on completion of investigation	The investigation of sexual offences under BNS and POSCO shall be completed within two months from the date on which the information was recorded.
207	230	Supply to accused of copy of police report and other documents	
231	254	Evidence for prosecution	

172	192	Diary of proceeding in investigation	# Section 172(2) has been replaced by Section 192(4). *New Inclusion- 192 (2) The statements of witnesses recorded during the course of investigation under section 180 shall be inserted in the case diary. 192 (3) The diary referred to in sub-section (1) shall be a volume and duly paginated.
-----	-----	--------------------------------------	---

New Provisions of the BNSS

Section			Notes
Section 107	Attachment, forfeiture or restoration of property	Where a police officer making an investigation has reason to believe that any property is derived or obtained, directly or indirectly, as a result of a criminal activity or from the commission of any offence, he may, with the approval of the Superintendent of Police or Commissioner of Police, make an application to the Court or the Magistrate exercising jurisdiction to take cognizance of the offence or commit for trial or try the case, for the attachment of such property. (2) If the Court or the Magistrate has reasons to believe, whether before or after taking evidence , that all or any of such properties are proceeds of crime, the Court or the Magistrate may issue a notice upon such person calling upon him to show cause within a period of fourteen days as to why an order of attachment shall not be made.	Even at the stage of investigation, the application can be made for attachment of property Attachment can be done at any stage of the trial or investigation.
Section 193 (3) (ii)	Report of police officer on completion of investigation	The police officer shall, within a period of ninety days, inform the progress of the investigation by any means including electronic communication to the informant or the victim.	Requirement to inform the progress of investigation to the informant or victim within 90 days of the investigation.
Section 356	Inquiry, trial or judgment in absentia of proclaimed offender.	Notwithstanding anything contained in this Sanhita or in any other law for the time being in force, when a person declared as a proclaimed offender, whether or not charged jointly , has absconded to evade trial and there is no immediate prospect of arresting him, it shall be deemed to operate as a waiver of the right of such person to be pres-ent and tried in person , and the Court shall, after recording reasons in writing, in the interest of justice, proceed with the trial in the like manner and with like effect as if he was present , under this Sanhita and pronounce the judgment:	

Provisions under Bharatiya Sakshya Adhiniyam, 2023

Comparative Chart of relevant provisions

Old Section (IEA)	New Section (BNS)	Offence	Changes
65B	63	Admissibility of electronic records	The new additions are highlighted in the complete text of Section 63 reproduced below.

Section 63 of BSA-

1. Notwithstanding anything contained in this Adhiniyam, any information contained in an electronic record which is printed on paper, stored, recorded or copied in optical or magnetic media or semiconductor memory which is produced by a computer or any communication device or otherwise stored, recorded or copied in any electronic form (hereinafter referred to as the computer output) shall be deemed to be also a document, if the conditions mentioned in this section are satisfied in relation to the information and computer in question and shall be admissible in any proceedings, without further proof or production of the original, as evidence or any contents of the original or of any fact stated therein of which direct evidence would be admissible.
2. The conditions referred to in sub-section (1) in respect of a computer output shall be the following, namely:–

a. the computer output containing the information was produced by the computer or communication device during the period over which the computer or communication device was used regularly to create, store or process information for the purposes of any activity regularly carried on over that period by the person having lawful control over the use of the computer or communication device;

b. during the said period, information of the kind contained in the electronic record or of the kind from which the information so contained is derived was regularly fed into the computer or communication device in the ordinary course of the said activities;

c. throughout the material part of the said period, the computer or communication device was operating properly or, if not, then in respect of any period in which it was not operating properly or was out of operation during that part of the period, was not such as to affect the electronic record or the accuracy of its contents; and

d. the information contained in the electronic record reproduces or is derived from such information fed into the computer or communication device in the ordinary course of the said activities.
3. Where over any period, the function of creating, storing or processing information for the purposes of any activity regularly carried on over that period as mentioned in clause (a) of sub-section (2) was regularly performed by means of one or more computers or communication device, whether–

a. in standalone mode; or

b. on a computer system; or

c. on a computer network; or

d. on a computer resource enabling information creation or providing information processing and storage; or

e. through an intermediary,

all the computers or communication devices used for that purpose during that period shall be treated for the purposes of this section as constituting a single computer or communication device; and references in this section to a computer or communication device shall be construed accordingly.
4. In any proceeding where it is desired to give a statement in evidence by virtue of this section, a certificate doing any of the following things shall be submitted along with the

a. identifying the electronic record containing the statement and describing the manner in which it was produced;

b. giving such particulars of any device involved in the production of that electronic record as may be

appropriate for the purpose of showing that the electronic record was produced by a computer or a communication device referred to in clauses (a)to (e) of sub-section (3);

- c. dealing with any of the matters to which the conditions mentioned in sub-section (2) relate, and purporting to be signed by a person in charge of the computer or communication device or the management of the relevant activities (whichever is appropriate) and an expert shall be evidence of any matter stated in the certificate; and for the purposes of this sub-section it shall be sufficient for a matter to be stated to the best of the knowledge and belief of the person stating it in the certificate specified in the Schedule.

